

# Otero County Subdivision Regulations Otero County Ordinance 10-08

**Adopted: June 24, 2010**



**Otero County, New Mexico**

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## **ARTICLE 1. GENERAL PROVISIONS**

### **Section 1.1 Title**

This ordinance shall be known and may be cited as the "Otero County Subdivision Regulations" and shall be referred to elsewhere herein as "these Regulations".

### **Section 1.2 Authority**

These Regulations are created pursuant to the enabling authority set forth in §§ 47-6-1 *et seq.*, NMSA 1978; §§ 4-37-1 *et seq.*, NMSA 1978; and §§ 3-20-5, 3-20-6, and 3-20-9 NMSA 1978.

### **Section 1.3 Purpose**

These Regulations are adopted for the following purposes:

1. To provide for and protect the public health, safety, and general welfare of the County;
2. To guide the future growth and development of the County in accordance with any official plans adopted by the County;
3. To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population;
4. To protect and conserve the value of land throughout the County and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;
5. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the County, having particular regard to the avoidance of congestion in the streets and highways, and pedestrian traffic movements appropriate to the various uses of land and buildings; and to provide for the proper location and width of streets;
6. To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land; and
7. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the County in order to preserve the integrity, stability, and beauty of the community and the value of the land.

### **Section 1.4 Jurisdiction**

These Regulations shall govern all subdivisions of land within the County, but not within the boundaries of municipalities. The County and a municipality shall exercise concurrent jurisdiction over the territory within the platting jurisdiction of both the County and the municipality, as provided in §§3-20-5 and 3-20-9 NMSA 1978.

### **Section 1.5 Written Decisions**

Whenever the Board of County Commissioners or its delegate is required by these Regulations to make a decision, the decision shall be in writing and supported by findings of fact and conclusions of law which are sufficient for meaningful review.

### **Section 1.6 Interpretation**

The provisions of these Regulations are held to be minimum requirements. Whenever any provisions of these Regulations conflict with other laws, rules, regulations, covenants, or ordinances, the more restrictive shall govern. These Regulations shall be construed broadly to promote the purposes for which they were adopted.

## Section 1.7 Appendices

The Board of County Commissioners is hereby authorized to adopt by Resolution the specific requirements for technical appendices to this ordinance covering the following subjects: Appendix A: Plat Certifications and Forms; Appendix B: Water Quality and Liquid and Solid Waste Disposal Requirements; Appendix C: Water Use and Conservation; Appendix D: Terrain Management; and Appendix E: Streets, Roads, Alleys, Easements, and Other Rights-of-Way.

## ARTICLE 2. DEFINITIONS

<b>verification of completion</b>	Document from the county engineering department verifying that the subdivision is surveyed and staked and roads are constructed to county specifications and all improvements have been completed as per the approved preliminary plat and draft disclosure statement
<b>certificate of exemption</b>	Documentation from the Planning Coordinator stating that a claim of exemption has been approved.
<b>claim of exemption</b>	An assertion made by a land owner that the proposed conveyance of certain newly created parcels does not constitute a subdivision because of any one of the exceptions to the definition of a subdivision.
<b>common promotional plan</b>	Any plan or scheme of operation, undertaken by a single subdivider or a group of subdividers acting in concert, to offer for sale or lease parcels of land where such land is either (1) contiguous to or part of the same area of land, or (2) is known, designated or advertised as a common unit or by a common name.
<b>County</b>	The County of Otero.
<b>contiguous</b>	Refers to adjacent parcels sharing a boundary line or separated only by a road, right-of-way, or easement.
<b>disclosure statement</b>	Statement required to be given to persons acquiring an interest in subdivided land; this statement shall comply with the requirement of §47-6-17 NMSA 1978 and be in the format provided in Appendix "A" to this Ordinance.
<b>Indian nation, tribe or pueblo</b>	means any federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico
<b>Immediate family member</b>	Husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew, and niece, whether related by natural birth, marriage or adoption.
<b>Lease</b>	To lease or offer to lease land.
<b>Liquid Waste Disposal Plan</b>	a plan meeting the minimum requirements in force at the time of application as required by the New Mexico Environment Department.
<b>parcel</b>	Unit of land capable of being described by location and boundaries and not dedicated for public or common use.
<b>person</b>	Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity.
<b>Planning Coordinator</b>	County Administrative employee responsible for coordinating and processing subdivision applications and related planning matters, who may also serve as Recording Secretary to the Otero County Planning Commission.

<b>Plat, final</b>	Map certified by a licensed, registered land surveyor, which contains a description of the subdivided land with ties to permanent monuments, prepared in a form suitable for filing of record. This is the plat of the subdivision to be sold in accordance with the approved preliminary plat.
<b>Plat, Preliminary</b>	Map certified by a licensed, registered land surveyor, which contains a description of the land to be subdivided, precise character and layout of the land and the planned subdivision and the existing conditions in and around it. Prepared and submitted for evaluation by the Planning Commission and the Board of County Commissioners, for approval for construction and development. (See Article 4.)
<b>Plat, summary review</b>	Map certified by a licensed, registered land surveyor, which contains a description of the land subdivided under a Type three B or a Type Five summary review procedure, with ties to permanent monuments, prepared in a form suitable for filing of record. This is the plat of the developed final product based on the approved summary review plat completed. (See Article 7)
<b>sell/sale</b>	To sell or offer to sell land.
<b>subdivide</b>	To divide a surface area of land into 2 or more parcels.
<b>subdivider</b>	Any person/agent who creates or who has created a subdivision, individually or as part of a common promotional plan, or any person engaged in the sale, lease, or other conveyance of subdivided land; however, "subdivider" <b>does not</b> include any duly licensed real estate broker or salesperson acting on another's account.
<b>subdivision</b>	<p>The division of a surface area of land, including land within a previously approved subdivision, into two (2) or more parcels for the purpose of sale, lease, or other conveyance; or for development, whether immediate or future; however "subdivision" <b>does not</b> include the following:</p> <ol style="list-style-type: none"><li>1. The sale, lease, or other conveyance of any parcel that is thirty-five (35) acres or larger in size within any twelve (12) month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with § 7-36-20 NMSA 1978, for the preceding three (3) years;</li><li>2. The sale or lease of apartments, offices, stores, or similar space within a building;</li><li>3. The division of land within the boundaries of a municipality;</li><li>4. The division of land in which only gas, oil, mineral, or water rights are severed from the surface ownership of the land;</li><li>5. The division of land created by court order where the order creates no more than one (1) parcel per party;</li><li>6. The division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities;</li><li>7. The division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased;</li><li>8. The division of land to create burial plots in a cemetery;</li><li>9. The division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one (1) parcel per tract of land per immediate family member;</li></ol>

10. The division of land created to provide security for mortgages, liens, or deeds of trust, provided that the division of land is not the result of a seller-financed transaction;

11. The sale, lease, or other conveyance of land that creates no parcel smaller than one-hundred forty (140) acres.

12. The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college, or other institution with a defined curriculum and a student body and faculty which conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching, or other specifically religious activity; or

13. The sale, lease, or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five (5) year period, provided that a second or subsequent sale, lease, or other conveyance from the same tract of land within five (5) years of the first sale, lease, or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act and this Ordinance; provided further that a survey shall be filed with the County Clerk indicating the five (5) year holding period for both the original tract and the newly created tract.

**terrain management**

Control of floods, drainage, and erosion, and measures necessary to adapt proposed development to existing surface and subsurface soil characteristics and topography.

**time of purchase, lease, or other conveyance**

Time of signing any document obligating the person signing the document to purchase, lease, or otherwise acquire a legal interest in land.

**Type One Subdivision**

Any subdivision containing five hundred (500) or more parcels, any one of which is less than ten (10) acres in size.

**Type Two Subdivision**

Any subdivision containing at least twenty-five (25) but not more than four hundred ninety-nine (499) parcels, any one of which is less than ten (10) acres in size.

**Type Three A Subdivision**

Any subdivision containing at least six (6) but not more than twenty-four (24) parcels, any one of which is less than ten (10) acres in size.

**Type Three B Subdivision (Summary Review Type)**

Any subdivision containing at least two (2) but not more than five (5) parcels, any one of which is less than ten (10) acres in size.

**Type Four Subdivision**

Any subdivision containing twenty-five (25) or more parcels, each of which is ten (10) acres or more in size.

**Type Five Subdivision (Summary Review Type)**

Any subdivision containing not more than twenty-four (24) parcels, each of which is ten (10) acres or more in size.

<b>TYPES OF SUBDIVISIONS</b>		
<b>Type</b>	<b>Number of Parcels</b>	<b>Size of Smallest Parcel</b>
One	500 or more	Less than 10 acres
Two	25 to 499	Less than 10 acres
Three A	6 to 24	Less than 10 acres



#### **Section 4.1 Preliminary Plat and Draft Disclosure Statement Submittal**

- A. Preliminary plat required. Preliminary plats shall be submitted for Type One, Type Two, Type Three A, and Type Four subdivisions. Type Three B subdivisions and all Type Five subdivisions are subject to review under the summary review procedure set forth in Article Six of these Regulations.
- B. Application/Fees. A subdivider shall submit seventeen (17) copies of the preliminary plat, draft disclosure statement, and supporting documentation in accordance with the requirements provided in Section 4.2 of these Regulations. In addition to the preliminary plat and supporting documentation, the subdivider must submit a completed application form available from the Planning Coordinator and pay the required administrative fees.
- C. Real Estate Taxes. The subdivider shall submit a copy of the latest paid tax receipts or an affidavit from the Treasurer's Office verifying that the taxes are paid on the total land to be subdivided.

#### **Section 4.2 Preliminary Plat and Draft Disclosure Statement Data Requirements**

- A. Preliminary Plat Specifications. The preliminary plat map shall be prepared by a licensed, registered surveyor at a scale of two-hundred (200) feet to one (1) inch or larger and printed on sheets twenty-four by thirty-six (24 X 36) inches. Sheets shall be numbered in sequence if more than one sheet is used. The preliminary plat map shall be prominently titled Preliminary Plat along with the name of the subdivision.

The Preliminary Plat shall show the following:

1. title (subdivision's name), scale, north arrow, and date of plat;
2. existing and proposed tract boundary lines in bearings and distances, with ties to permanent survey markers conforming to engineering standards to which all dimensions, angles, bearings and similar data shall be referred;
3. All lots, and blocks (if any), numbered in sequence, and other sites, with acreage and accurate dimensions, bearings, or deflection angles, and radii, arcs, and central angles of all curves;
4. Location, dimensions and purpose of all easements, and any dedicated public site or area; with annotations to easements of record by book and page. A copy of all referenced easements and dedications, showing the recording information, shall be attached to the Disclosure Statement.
5. Names and right-of way widths and centerline data of existing and proposed roads or other rights-of-way in and adjacent to the subdivision;
6. Existing and proposed utilities on and adjacent to the site;
7. Locations, dimensions, and purpose of any land to be dedicated to the public use or for the use of the owners of parcels fronting or contiguous to the land, including any improvements to be made to the land;
8. Location of any registered archaeological, historical, or culturally significant features on the site (Including any marked graves);
9. A vicinity map showing the relationship of the subdivision site to its general surroundings;
10. Delineation of any 1% chance storm flood plain as designated by the Federal Emergency Management Agency;
11. Names and addresses of the owner or owners of land to be subdivided, the subdivider (if other than the owner), and the land surveyor;
12. Names of owners of contiguous land parcels;

13. A surveyor's certification and certification for Board of County Commissioner's approval, in the format provided in Appendix A of these Regulations, including legal description indicating range, township, and section within which the subdivision is located;
14. The certification (in the format provided in Appendix A of these Regulations) of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey;
15. The following additional requirements shall be placed on the Preliminary Plat or on a supplemental Preliminary Plat or overlay at the same scale with the subdivision roads and lots outlined on it.
  - a. Existing topography and re-grading plans, indicating contour intervals sufficient for planning purposes;
  - b. any and all known existing improvements and surface features, such as houses, barns, fences, old water wells, irrigation ditches, mines or gravel pits, buried electric cables, pipe lines, telephone and TV cable company service lines, and surface electric power lines and poles;
  - c. any and all known fences, driveways, roads and trails, with notations if different from roads and utility easements to be dedicated;
  - d. all current and past points and sources of any potential pollution in the area, that are visible, known to owner or public record, including but not limited to, buried fuel tanks, old septic tanks, dumped fill material and current or past dump sites on or near subdivision land;
  - e. any surface irrigation or flood control structures or filled in depressions that hold water or have acted as a water ponding area in the past; and
  - f. all surface water flow paths existing or having existed along with any constructed diversion ditch, dam or earth berm in place on or off the subdivision.

B. Draft Disclosure Statement. The preliminary plat shall be accompanied by a draft disclosure statement in accordance with the standardized format provided in Appendix A of these Regulations. The disclosure statement must be prepared on the form approved by the County and shall not be altered from that format. A disclosure statement is required for all subdivisions. The purpose of the disclosure statement is to permit the prospective purchaser, lessee, or other person acquiring an interest in subdivided land to make an informed decision about the purchase, lease, or other conveyance of the land. When submitted with the preliminary plat, the disclosure statement shall be prominently marked DRAFT at the top of the first page.

At a minimum, the supporting documentation required for the draft disclosure statement shall provide sufficient information to determine that:

1. Water is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses;
2. Water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination;
3. There is a means of liquid waste disposal for the subdivision;
4. There is a means of solid waste disposal for the subdivision;
5. There are satisfactory roads to each parcel, including entry and exit for emergency vehicles, and there are appropriate utility easements to each parcel;
6. Terrain management protects against surface flooding, inadequate drainage, and erosion;

7. There are protections for cultural properties, archaeological sites, and unmarked burials that may be affected by the subdivision, as required by the Cultural Properties Act;
8. The subdivider can fulfill the proposals contained in the disclosure statement for the subdivision; and
9. The subdivision will conform to the New Mexico Subdivision Act and these Regulations.

**C. Disclosure Statement Attachments.**

Disclosure Statement Attachments shall at a minimum, include:

1. A Water supply plan including conservation, water quality, and fire protection components;
2. A Liquid waste disposal plan including limits on types any methods of septic systems and limits on improvements that can be built on the lot.
3. A map showing accessibility of site to roads and utilities;
4. A Terrain management plan, which:
  - a. includes soils types and conditions and surface flow data;
  - b. provides that runoff to be generated by improvements on the lots shall be contained on the lots;
  - c. provides that there will be no increase in discharge from the subdivision when or after improvements are built; and
  - d. contains an evaluation of sub-surface drainage adequacy related to septic systems
5. A vicinity map (U.S. Geological Survey map, scale 1:24000) showing the relationship of the subdivision site to its general surroundings, and the location of all existing drainage channels, water and erosion control structures, arroyos, watercourses and water bodies within three (3) miles of the subdivision; and a separate aerial photograph of the most current available photography with the subdivision outlined and shown so that an upstream view of the drainage area extending at least three (3) miles from the border of the subdivision is shown. If necessary to show the drainage area, the photograph will show a larger area than three (3) miles from the subdivision border.
6. A plan for registered cultural properties protection if any registered cultural properties are located in or contiguous to the proposed subdivision;
7. A sample Financing contract demonstrating conformity to Regulation Z, as issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.).
8. Shared road and or water well operation and maintenance agreements if applicable
9. subdivision covenants if applicable.

D. Utility easement approval. An affidavit on the form provided in Appendix A of these Regulations shall be submitted with the preliminary plat to demonstrate that all utility companies that will be providing service to the subdivision have reviewed the preliminary plat and approved utility easements.

E. Phased subdivisions. Subdivisions which are proposed to be phased and filed in multiple final plats shall include an anticipated phasing schedule for the final plats and a schedule of improvements.

**Section 4.3 Preliminary Plat and Draft Disclosure Statement Deemed Complete**

On receipt of the application, fees, land tax receipts or county treasurer affidavit, and the required number of copies of the preliminary plat, draft disclosure statement, and supporting documentation, the Planning Coordinator shall review all materials in order to determine if the preliminary plat is ready to begin the review process. If there are no deficiencies, the Planning Coordinator will

provide written notice to the subdivider, within thirty (30) days after the date of the application, that the preliminary plat is deemed complete for agency review.

If the preliminary plat is incomplete or does not comply with the submittal requirements provided in these Regulations, the subdivider shall be notified in writing and given a maximum time period of sixty (60) days to correct the deficiencies and return the preliminary plat for consideration.

#### Section 4.4 Agency Review

A. Plat and draft disclosure statement transmittals. Within ten (10) days after the date that the preliminary plat is deemed complete, the Planning Coordinator shall forward a copy of the preliminary plat, draft disclosure statement and supporting documentation to the following state and local agencies with a request for review and opinions.

One file copy of the Preliminary plat, draft disclosure statement and accompanying materials will be retained by the subdivision coordinator and seventeen (17) copies will be mailed by certified mail, return receipt requested, to:

1. New Mexico Highway and Transportation Department – six (6) copies;
2. New Mexico Office of Cultural Affairs - one (1) copy;
3. New Mexico State Engineer's Office - one (1) copy;
4. Mescalero Apache Tribe - one (1) copy

and additionally, one copy each shall be hand-delivered and receipted or mailed by Certified Mail, return receipt requested to:

5. New Mexico Attorney General's Office
6. New Mexico Environment Department; Health Division
7. New Mexico Environment Department, Drinking Water Bureau
8. Otero County Office of Emergency Management
9. GIS Office, Rural Addressing
10. Otero County Department of Public Works; and
11. Otero County Soil and Water Conservation District.

B. Agency response. The state and local agencies, and Indian nations, tribes or pueblos. (hereafter collectively referred to as "agencies") shall have thirty (30) days from their receipt of the preliminary plat and draft disclosure statement and attachments, to review and return an opinion regarding them. The Planning Coordinator shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency. Any adverse agency response should detail all deficiencies.

C. Adverse opinion. If any opinion from a public agency is adverse, the Planning Coordinator shall forward a copy of the adverse opinion to the subdivider and request that additional information is provided to the County within thirty (30) days after receipt to respond to the concerns of the appropriate agency. The Planning Coordinator shall forward a copy of such additional information upon receipt to the appropriate agency, which shall have thirty (30) days after the date the subdivider submits the additional information and it is transmitted and received by the reviewing agency in order to revise its opinion. Adverse opinions from any reviewing agency and then the response to it from the subdivider shall also be faxed to the other reviewing agencies as supplemental data for their consideration. This shall be done to make sure that the other agencies are provided with all of the data that can impact their evaluation of the subdivision. There is no additional extension of the response time needed because the thirty (30) days already required for communications between the subdivider and the reviewing agency finding deficiencies is adequate for the other agencies if it impacts them and they need the time. The Planning Coordinator shall obtain receipts or other proof showing the date the additional information was received by each state or local agency. When the subdivider has made revisions in his preliminary plat or draft disclosure data to correct deficiencies noted by the reviewing agencies, he shall retrieve eight (8) copies of the preliminary plats and draft disclosure statements for review by the planning commission and the board of county commissioners from the subdivision coordinator and revise them and return them.

[move from Section A] The eight (8) revised copies of the preliminary plat, disclosure statement, including agency comments, and supporting documentation shall be distributed later: Seven (7) are for the Planning commissioners and one is for administration to copy for the board of county commissioners' public hearing book. If any changes are needed as a result of the review agencies adverse opinion or recommendations, these eight copies shall be revised to contain the changes before they are distributed. The planning coordinator will return them to the subdivider who is responsible to revise them and return them not later than seven (7) days before the planning commission meeting

Copies may also be mailed or delivered to public agencies as deemed necessary.

- D. Favorable opinion. If the opinions received from all agencies are favorable, the County shall schedule a public hearing for consideration and action on the preliminary plat within thirty (30) days following the receipt of such favorable opinions. If the County does not receive a requested opinion within the specified thirty (30) days, it shall proceed with the required public hearing.
- E. Revised opinion. The County shall schedule a public hearing for consideration and action within thirty (30) days after the receipt of a revised opinion from the appropriate agency. If the County does not receive a revised opinion within the specified thirty (30) days after the date the subdivider submits the additional information and it is transmitted to and received by the reviewing agency, it shall proceed with the required public hearing.
- F. Additional Copies. When all material is in order, the subdivider shall provide five (5) additional copies of the Preliminary Plat and Disclosure Statement to County Staff,

#### **Section 4.5 Planning Commission Review**

- A. Scheduling. A Review by the Planning Commission shall be scheduled by the Planning Coordinator for the next normal scheduled Planning Commission meeting which will take place before the public hearing is conducted at the next Board of County Commissioners meeting. On the Sunday afternoon before the Planning Commission meeting, the Planning Commissioners, the subdivider, and any other interested members of the public may visit the site of the subdivision and inspect the terrain. Written notice will be provided to the subdivider regarding the time and date of the Planning Commission visit to the site of the subdivision and the scheduled meeting to review the preliminary plat and draft disclosure statement. The subdivider, his representative, or agent is required to attend the Planning Commission review meeting. If the owner is not present, the person proposing the subdivision shall present the planning commission with written proof of authority to bind the owner the proposal. If the owner, subdivider, his representative or agent fails to attend the planning commission review meeting, the application shall be deemed denied".

The preliminary plat and draft disclosure statement and accompanying material plus any and all other data or documents submitted for consideration in the reviewing process and copies of all data and correspondence between the reviewing agencies and the subdivider shall be assembled by the subdivision coordinator under his summarizing outline cover document, and mailed or delivered to each member of the Planning Commission not later than seven (7) days before the scheduled Planning Commission review meeting.

Contiguous property owners and any other individuals who have requested to be notified by the Planning Coordinator shall be mailed a notice of the date, time of day and the purpose of the Planning Commission comprehensive review meeting and the separate public hearing scheduled at a later date before the Board of County Commissioners.

During the Planning Commission review meeting, the Planning Commission shall allow all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing, but not to examine witnesses testifying during the meeting. A record of the Planning Commission meeting shall be kept. The opinions of the public agencies shall be made a part of the record.

[Note: See Section 4.6 Public Hearing for Preliminary Plats and Draft Disclosure Statements below. The Planning Commissions review meeting notice may be integrated with and published as part of the notice of the public hearing, and the Planning Commission review may be made part of the same notice.]

- B. Planning Commission Recommendation. The Planning Commission shall review the physical site of the subdivision, the revised preliminary plat, the revised draft disclosure statement and all data, documentation, material, opinions and correspondence received from state and local review agencies and any other interested parties. The Planning Commission shall then, before the public hearing is conducted, make a recommendation to the board of County Commissioners to approve, approve with conditions, or disapprove the preliminary plat and draft disclosure statement. If a recommendation is made to approve with conditions, or to disapprove the preliminary plat and/or draft disclosure statement, a record shall be made of the conditions or reasons for disapproval or conditional approval, including any statements by members of the Planning Commission, and a record of the vote on the recommendation. The recommendation and record of the proceedings shall be forwarded to the Board of County Commissioners and the subdivider."

#### **Section 4.6 Public Hearings on Preliminary Plats and Draft Disclosure Statements**

- A. **Scheduling.** The County shall conduct a public hearing within forty-five (45) days from the receipt of all requested public agency opinions where all such opinions are favorable, or within forty-five (45) days from the date all public agencies complete their review of any additional information submitted by the subdivider. If a requested opinion is not received within the forty-five (45) day period, the County shall proceed with the public hearing. Notice of the public hearing shall be given at least twenty-one (21) days before the hearing date.
- B. **Notice.** The notice of public hearing shall be published in a newspaper of general circulation in the County and shall contain the following information:
1. the time and date of the Planning Commission review-meeting, whenever such meeting notice can be included in the same notice;
  2. Subject of the public hearing
  3. Time and place of the public hearing
  4. Manner for interested persons to present their views and
  5. Place and manner for interested persons to review copies of the subdivider's proposal and any favorable or adverse opinions.
- C. **Notification.** Copies of the notice of public hearing shall be transmitted to the following:
1. The subdivider filing the application for preliminary plat approval;
  2. Those public agencies which initially received copies of the preliminary plat and supporting documentation with a request for opinion;
  3. Any interested person who previously requested such notice and provided a stamped, self-addressed envelope for such purpose; and
  4. Owners of property contiguous to land proposed to be subdivided.
- D. **Participation/record.** An owner/developer of the proposed subdivision shall appear at the public hearing scheduled pursuant to Section 4.5 unless he/she/they have provided a signed and notarized statement authorizing a designated agent to appear on their behalf. Failure of the owner/developer or designated agent to appear at the public hearing to provide additional required information may result in the Board of County Commissioners tabling the application. At the public hearing, the County shall allow all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing, and to examine witnesses testifying at the hearing. A record of the public hearing shall be kept. The opinions of the public agencies and the record of the Planning Commission proceedings shall be made a part of the record.
- E. **Action.** Within thirty (30) days after the public hearing, the Board of County Commissioners shall approve, approve with conditions, or disapprove the preliminary plat, disclosure statement and attachments. At the conclusion of the public hearing, the Board of County Commissioners may either announce their decision, or announce the date, time and place within thirty (30) days at which a decision will be announced. A decision on approval may also be made at the conclusion of the public hearing. The Planning Coordinator shall inform the subdivider in writing of the decision of the Board of County Commissioners.

#### **Section 4.7 Expiration of Preliminary Plat**

- A. **Expiration.** An approved or conditionally approved preliminary plat shall expire twenty-four (24) months after its approval or conditional approval. Upon request by the subdivider, an additional period of no more than twelve (12) months may be added to the expiration date by the Board of County Commissioners.
- B. **Phased development.** If the preliminary plat was approved for phased development, the subdivider may file final plats for portions of the development, and the expiration date of the preliminary plat shall be extended for an additional thirty-six (36) months after the date of the filing of each final plat. The number of phased final plats shall not exceed four (4) phases.
- C. **Extension.** Before the expiration date of the approved or conditionally approved preliminary plat, the subdivider may submit to the Board of County Commissioners an application for extension of the preliminary plat for a period of time not exceeding

thirty-six (36) months. The period of time specified in this Section shall be in addition to the period of time provided in Subsection B of this Section.

- D. Expiration effect. The expiration of the approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and no final plat shall be filed without first processing a new preliminary plat.

## ARTICLE 5. FINAL PLAT REVIEW PROCESS

### Section 5.1 Final Plat Submittal

- A. Conformity. Following approval or conditional approval of a preliminary plat, and before the expiration of the preliminary plat, the subdivider shall prepare a final plat in substantial conformity with the approved or conditionally approved preliminary plat. Subdivisions proposed to be phased in multiple final plats shall be submitted as indicated on the phasing schedule submitted with the preliminary plat.
- B. Application. A subdivider shall submit a final plat, disclosure statement, and supporting documentation, in accordance with the requirements provided in these Regulations. Final plat submittal is initiated by submitting a completed application on a form provided by the Planning Coordinator, two (2) copies of the final plat, final disclosure statement, and supporting documentation. Submittal is made to the Planning Coordinator.

### Section 5.2 Final Plat Data Requirements

- A. Filing specifications. The original drawing of the final plat shall be submitted to the County Clerk for recording and shall be prepared in waterproof ink on Mylar or acetate or other durable material suitable for reproducing copies. Two drawings on Mylar and one paper copy are required for filing with the Otero County Clerk. An extra paper copy will be required if the subdivider wishes to retain a copy with recording information. Final plat maps shall be drawn at a scale of two hundred (200) feet to one (1) inch or larger and printed on sheets twenty-four by thirty-six (24 x 36) inches. When more than one sheet is used to include the entire subdivision, all sheets shall be cut to the same size and shall show appropriate references to other sheets of the subdivision. The final plat shall be titled "Final Plat" in a prominent place on the map along with the name of the subdivision.
- B. Plat specifications. The final plat shall be prepared by a NM licensed, registered surveyor in accordance with the specifications set out in Section 5.2A, above, and shall include the following information
1. Title (subdivision's name), scale, north arrow, and date of plat;
  2. Legal description indicating the range, township, and section within which the subdivision is located with permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
  3. Tract boundary lines in bearings and distances, easement and right-of-way lines, and property lines of all lots and other sites, with accurate dimensions, bearings, or deflection angles, and radii, arcs, and central angles of all curves;
  4. Lot lines, with lot and block numbers, and acreage of each lot;
  5. Location, dimensions, and purpose of all easements, and any dedicated public site or area; annotate easements of record with book and page number where recorded and attach a copy in the disclosure statement;
  6. Name, right-of-way width, and centerline data of roads or other right-of-ways in and adjacent to the subdivision; residential lots and other sites, with accurate dimensions, bearings, or deflection angles, and radii, arcs, and central angles of all curves;
  7. Utilities on and adjacent to the site;
  8. Number of each parcel in progression, with its dimensions, and the dimensions of all land dedicated for public use or for the use of the owners of parcels fronting on or contiguous to the land;
  9. Names and addresses of the owner or owners of land to be subdivided, the subdivider (if other than the owner), and the land surveyor;

*See*

10. Delineation of any 1% chance flood plain as designated by the Federal Emergency Management Agency;
11. The certification (in the format provided in Appendix A of these Regulations) of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey.
12. Certification (in the format provided in Appendix A of these Regulations) demonstrating that all utility companies that will be providing service to the subdivision have reviewed the plat and approved utility easements;
13. Location of any registered archaeological, historical, or culturally significant features on the site; (Including any marked graves).
14. A surveyor's certification and certification for Board of County Commissioners approval in the format provided in Appendix A of these Regulations.
15. A vicinity map showing the relationship of the subdivision site to its general surroundings;
16. A certificate by the Otero County Board of Commissioners or their designated representative certifying that the subdivider has complied with the following conditions:
  - A. All improvements have been installed in accordance with the requirements of this Ordinance OR
  - B. (1) A contract is entered into with the Board of County Commissioners guaranteeing successful completion of all improvements and (See Appendix A (Sample Agreement)  
  
(2) a performance bond, certificate of deposit or other security as approved by the Board of County Commissioners is filed with the County Clerk in sufficient amount to assure completion of developer-provide improvements. The bond shall be based on engineering cost estimates. After preliminary acceptance, the performance bond will be replaced by a maintenance bond in the amount of 15% of the performance bond. The maintenance bond shall be filed and continued for the two-year test period of the developer-provided improvements after preliminary acceptance and until final acceptance by the Board of County Commissioners.
  - C. Affidavit. The final plat shall contain a statement that the land being subdivided is subdivided in accordance with the final plat. The final plat shall be acknowledged by all owners of record and subdivider or their authorized agents in the manner required for the acknowledgment of deeds. Every final plat submitted to the County Clerk shall be accompanied by an affidavit of the owner(s) and subdivider, or authorized agents, stating whether or not the proposed subdivision lies within the subdivision regulation jurisdiction of the County. A copy of the final plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land before sale, lease, or other conveyance.
  - D. Dedication. The final plat shall contain a certificate stating that the Board of County Commissioners has accepted, accepted subject to improvement, or rejected on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication. Upon full conformity with County road construction standards, the roads may be accepted for maintenance by the County after the required warranty period is completed. Acceptance of offers of dedication on a final plat shall not be effective until the final plat is filed in the Office of the County Clerk or a resolution of acceptance by the Board of County Commissioners is filed in that office.
  - E. Disclosure statement. For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format on the forms provided in Appendix A of these Regulations. The forms in Appendix A shall not be altered in any way. It is unlawful to sell, lease, or otherwise convey land in a subdivision until the subdivision is completed and the required disclosure statement has been filed along with the final plat with the County Clerk, the Board of County Commissioners, and the Attorney General's Office; and until the prospective purchaser, lessee, or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement. The disclosure statement submitted with a final plat shall be a complete and final copy as approved by the Board of County Commissioners. It shall not be labeled as a draft. The disclosure statement shall include a signature page in the format provided in Appendix A of these Regulations and shall be signed by the owner/developer.

- F. Restrictive Covenants. Restrictive covenants, if any, shall be attached to the disclosure statement and referenced in the disclosure statement where appropriate
- G. Conformity. The Board of County Commissioners shall not approve the final plat of any subdivision if the subdivider has not fulfilled or cannot reasonably demonstrate that he can fulfill the proposals contained in his previously approved Preliminary plat and draft disclosure statement or if the lots are not surveyed and staked with the roads surveyed and located in conformance to the Final Plat or if the subdivider has not conformed with the New Mexico Subdivision Act and the County's subdivision ordinance.
- H. Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and this Ordinance and not covered in the subdivider's statement of record shall be attached to the statement of record.
- I. Environment Department approval. For any subdivision requiring construction of a community water supply system or a community liquid waste system, documentation of approval from the New Mexico Environment Department shall be required for final plat approval.
- J. Recording. The final plat is in full force and effect only after having been recorded in the office of the County Clerk within one (1) year after the date of approval by the Board of County Commissioners.
- K. Water permit. A copy of the water permit issued by the State Engineer will be required only for Type 1 subdivisions and any subdivision with a completed and approved community public water system.
- L. Sample Contracts. The subdivider shall submit a sample copy of sales contracts, leases, and any other documents which will be used to convey an interest in the subdivided land and include them as attachments to the disclosure statement along with documentation demonstrating that any seller financed mortgages shall be in compliance with Regulation Z, as issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.).

### **Section 5.3 Final Plat Deemed Complete**

A subdivider shall prepare a final plat, disclosure statement, and supporting documentation in accordance with the requirements provided in Section 5.2 of these Regulations. Final plat submittal is initiated by submitting a completed application on the prescribed form available from the Planning Coordinator, along with two (2) copies of the Final Plat, disclosure statement, and supporting documentation. The Planning Coordinator shall review all materials in order to determine whether the final plat and disclosure statement are complete. If there are no deficiencies, the final plat will be deemed complete for inspection review by written notice to the subdivider within thirty (30) days after the date of application. Upon county inspection, if the Final Plat is found to be compliant with the preliminary requirements, the County, or its designee, shall recommend that it is compliant with the preliminary and a verification of completion shall be issued at which time preliminary work shall be considered complete and request and review for final shall be reviewed by the appropriate parties. If the final plat is incomplete or does not comply with the submittal requirements provided herein, the subdivider shall be notified and will be given a reasonable time not to exceed the preliminary plat expiration date to correct the deficiencies and return the final plat for consideration.

### **Section 5.4 Decision on Final Plat and Disclosure Statement**

- A. Action. Final plats and disclosure statements submitted to the County for approval shall be approved or disapproved by the Board of County Commissioners at a public meeting within thirty (30) days after the date the final plat is deemed complete.
- B. Denial. The Board of County Commissioners shall not deny a final plat and disclosure statement if it has previously approved a preliminary plat and draft disclosure statement with supporting documentation for the proposed subdivision and it finds that the final plat is in compliance with the previously approved preliminary plat and draft disclosure statement and documentation, and that the subdivider has surveyed and staked the property, and complied with the submittal requirements of Section 5.3, above. Denial of a final plat shall be accompanied by a finding identifying the requirements that have not been met.
- C. Failure to act. If the Board of County Commissioners does not act upon a final plat within the required period of time, the subdivider shall give the Board of County Commissioners written notice of its failure to act. If the Board of County

Commissioners fails to approve or reject the final plat within thirty (30) days after that notice, the Board of County Commissioners shall, upon demand by the subdivider, issue a certificate that the final plat has been approved.

- D. **Final Plat.** When all material is in order, the subdivider shall provide five (5) additional copies of the Final Plat and Disclosure Statement to County Staff.

### Section 5.5 Water Permits

- A. In acting on the permit application, the State Engineer shall determine whether the amount of water is sufficient in quantity to fulfill the maximum water requirements for the subdivision.
- B. The Board of County Commissioners shall not approve a final plat for a Type 1 subdivision or any new subdivision with an approved public water system unless the subdivider has a letter or agreement with an existing community water system or demonstrates that there is a State Engineer permit for subdivision water use issued according to New Mexico Statutes:

§ 72-5-1:	New appropriations of surface water
§ 72-5-23:	Changes in place of use
§ 72-5-24:	Changes in purpose of use or point of diversion
§ 72-12-3:	New appropriations of ground water
§ 72-12-7:	Changes in purpose of use or location of well

## ARTICLE 6. SUMMARY REVIEW

### Section 6.1 Summary Review Plat and Disclosure Statement Submittal

- A. **Qualifications.** The following type of subdivisions shall be submitted to the County for approval under summary review procedure:
1. Type Three B subdivisions unless the land within a subdivision has been previously identified in the County Comprehensive Plan or County Zoning Ordinance (if applicable) as an area subject to unique circumstances or conditions that require additional review; and
  2. All Type Five subdivisions.
- B. A pre-application conference is available before application for summary review and approval (See Section 3.1).
- C. **Application/fees.** A subdivider shall submit ten (10) copies of the summary review plat, disclosure statement and supporting documents described in these Regulations, and a completed application on the form provided by the Planning Coordinator. The subdivider is required to pay the summary review fee at the time the plat and supporting documentation are submitted.
- D. **Real Estate Taxes.** The subdivider shall provide a certificate from the Otero County Treasurer which states that all property tax obligations are current on the land parcels to be subdivided, and that the property is assessed on the rolls of the Otero County Assessor.

### Section 6.2 Summary Review Plat and Draft Disclosure Statement Data Requirements

- A. **Filing Specifications.** Upon approval, the original drawings of the summary review plat and the disclosure statement shall be filed with the County Clerk. Original plats shall be prepared in waterproof ink on Mylar or acetate or other durable material at a scale of two hundred (200) feet to one (1) inch or larger and printed on sheets minimum eighteen by twenty-four (18 x 24) inches and maximum twenty-four by thirty-six (24 X 36) inches. Sheets shall be numbered in sequence if more than one sheet is used. The summary review plat shall be considered as a final plat suitable for filing with the County Clerk. The summary review plat shall be prominently titled "Summary Review Plat" along with the name of the subdivision.
- B. **Plat Specifications.** The summary review plat shall be prepared by a licensed, registered surveyor and shall include the following information:

1. title, scale, north arrow, and date of plat;
  2. legal description indicating the range, township, and section within which the subdivision is located.
  3. A vicinity map showing the relationship of the subdivision site to its general surroundings.
  4. subdivision boundary lines, easement and right-of-way lines, and property lines of all lots and other sites, with accurate dimensions, and ties to monuments;
  5. All lots and blocks (if any), numbered in sequence, and other sites, with acreage in accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves.
  6. Location, dimensions, and purpose of all easements;
  7. Delineation of any 1% chance storm as designated by the Federal Emergency Management Agency;
  8. existing and proposed utilities on and adjacent to the site;
  9. location, dimensions and purpose of all land dedicated for public use or for the use of the owners of parcels fronting on or contiguous to the land;
  10. location of any registered archeological significant features on the site, (including any marked graves);
  11. names and addresses of owner or owners of land to be subdivided and of contiguous property, the subdivider (if other than the owner), and the land surveyor;
  12. the certification (in the format provided in Appendix A of these Regulations) of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey;
  13. certification for the County Planning Commission approval certificate in the format provided in Appendix A of these Regulations; and
  14. certification by the Otero County Administrator or his designated representative that the subdivider has complied with Article 8 of these Regulations and that the plat is approved for filing.
- C. Affidavit. The summary review plat shall contain a statement that the land being subdivided will be subdivided in accordance with the summary review plat. The summary review plat shall be acknowledged by all owners of record and subdivider, or their authorized agents, in the manner required for the acknowledgment of deeds. Every summary review plat submitted to the County Clerk as a final plat shall be accompanied by an affidavit of the owner(s) and subdivider, or authorized agents, stating whether or not the proposed subdivision lies within the subdivision regulation jurisdiction of the County. A copy of the summary review plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land before sale, lease, or other conveyance.
- D. Dedication. The summary review plat shall contain a certificate stating that the Board of County Commissioners has accepted, accepted subject to improvement, or rejected on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication. Upon conformity with County road construction standards, the roads may be accepted for maintenance by the County. Acceptance of offers of dedication on a summary review plat shall not be effective until the review plat is filed in the Office of the County Clerk or a resolution of acceptance by the Board of County Commissioners is filed in that office.
- E. Disclosure Statement. For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format on the forms provided in Appendix A of these Regulations and shall be signed by the owner/developer. It is unlawful to sell, lease, or otherwise convey land in a subdivision until the required disclosure statement has been filed with the County Clerk, the Board of County Commissioners, and the Attorney General's Office; and until the prospective purchaser, lessee, or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement. For all Summary Review Subdivisions with slopes of more than 4% or which have arroyos or waterways running through them or which require the construction of a new road, a terrain management plan as described in Appendix D, Section D.3 Terrain Management Plan for Summary Review shall be included.

- F. Utility easement approval. An affidavit in the format provided in Appendix A of these Regulations shall be submitted with the summary review plat to demonstrate that all utility companies that will provide service to the subdivision have reviewed the summary review plat and approved utility easements
- G. Restrictive Covenants. Restrictive covenants, if any, shall be attached to the disclosure statement and referenced in the disclosure statement where appropriate. The subdivider or his agent shall provide a copy of the restrictive covenants to all prospective purchasers.
- H. Fees. Required fees for summary review must be paid at the time the plat is submitted. All fees are non-refundable.
- I. Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act or this Ordinance and not covered in the subdivider's statement of record shall be attached to the statement of record.
- J. Advertising Standards. The advertising standards covering the sale, advertise for sale, offer for sale, lease, or other conveyance of subdivided land provided in Article 10 of these regulations shall be applicable to summary review plats.
- K. Sample Contracts. The subdivider shall attach a sample copy of sales contracts, leases, and any other documents which will be used to convey an interest in the subdivided land and include them as attachments to the disclosure statement along with documentation demonstrating that any seller financed mortgages shall be in compliance with Regulation Z, as issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.).
- L. Recording. The summary review plat is in full force and effect only after having been recorded in the Office of the County Clerk within one (1) year after the date of approval by the Planning Commission.

### **Section 6.3 Summary Review Plat Deemed Complete**

On receipt of the application, fees, summary review plat, disclosure statement, and supporting documentation, the Planning Coordinator shall review all materials in order to determine if the summary review plat is ready to begin the review process. If there are no deficiencies, the summary review plat will be deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. If the summary review plat or disclosure statement and supporting documentation is incomplete or does not comply with the submittal requirements, the subdivider shall be notified in writing and given a maximum time period of thirty (30) days to correct the deficiencies and return the summary review plat and disclosure statement for consideration.

### **Section 6.4 Review and Approval of the Plat and Disclosure Statement**

- A. Review of summary review plat. The summary review plat and supporting documents shall be reviewed by the Otero County Road Department, Otero County G.I.S. Office, Otero County Examining Surveyor, and any other public agency deemed necessary by the County. These agencies shall submit written comments within thirty (30) days of receipt of the summary review plat and disclosure statement and copies of the comments shall be forwarded to the subdivider or his designated agent.
- B. Summary review plat approval. Within thirty (30) days of the date the summary review plat and disclosure statement are deemed complete, the County shall, at a public hearing, approve, approve with conditions, or disapprove the summary review plat. The Board of County Commissioners may delegate the authority to approve any qualified subdivision under summary review to the Planning Commission.
- C. Improvement agreement. If, at the time of approval of the summary review plat for filing, any public improvements have not been completed by the subdivider as required by these Regulations, the Board of County Commissioners shall, as a condition for approval of the summary review plat for filing, require the subdivider to enter into an agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense. All public improvements (roads, etc.) shall be completed with twenty-four (24) months of Planning Commission approval of the summary review plat. Upon request by the subdivider, an additional period of no more than twelve (12) months may be added to the expiration date by the Board of County Commissioners. Appendix "A", Sample Agreement
- D. Requirement for construction to commence. Construction shall commence within one year of summary review plat approval. If construction is not commenced within one year of summary review plat approval, the subdivision will be deemed abandoned unless an extension is requested and approved prior to the expiration of one year. There shall be no limit to the

number of extensions which may be requested. If construction is not commenced within one year, or an extension granted, review and approval will again be required of any subdivision prior to any development.

**ARTICLE 7 SPECIAL PROCEDURES** REC DATE: 7/2/10 REC TIME: 8:42:44 AM INSTR#: 201006727 CLK: *lee*  
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**Section 7.1 Succeeding Subdivisions**

- A. Standards. Any proposed subdivision may be combined with a previous subdivision and upgraded for classification purposes by the Board of County Commissioners if the proposed subdivision includes:
1. A part of a previous subdivision that has been created in the preceding seven (7) year period; or
  2. Any land retained by a subdivider after creating a previous subdivision if the previous subdivision was created in the preceding seven (7) year period.

**Section 7.2 Vacation of Plats and Easements**

- A. Cause. Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if:
1. the owners of the land proposed to be vacated sign an acknowledged statement declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board of County Commissioners; or
  2. the Board of County Commissioners finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.
- B. Request for vacation. The vacation of all or a portion of a final plat shall be initiated by submittal of a written request for vacation to the Planning Coordinator. The written request shall be made by submittal of nine (9) completed copies of a Request to Vacate form available at the office of the Planning Coordinator. The request must be accompanied by the required fees and nine (9) copies of the subdivision plat showing the areas to be vacated. The request must also be accompanied by nine (9) copies of letters from electric and telephone companies and any other relevant utility company stating their approval of or objections to the proposed vacation. Vacations proposed within an extra-territorial zone must be accompanied by nine (9) copies of written comments from the municipality or village having concurrent jurisdiction which states the approval of or objections to the vacation. The County may require a certified survey if necessary to properly designate the area(s) to be vacated. Further steps in the review process will not be taken until nine (9) copies of the complete request, including required letters and copies of plat, and any required survey is submitted and fees are paid.
- C. Notice to contiguous land owners. The Planning Coordinator shall identify and mail notice of the Request to Vacate by certified mail, return receipt requested, to contiguous land owners a minimum of fifteen (15) days before the scheduled Planning Commission hearing. The notice shall contain the date, time, and place of the Planning Commission hearing, along with a description or copy of the Request to Vacate. The notice shall also state a procedure and deadline for submitting written comments.
- D. Planning Commission review and hearing. A public hearing before the Planning Commission shall be scheduled. Notice of the public hearing shall be published in a newspaper in general circulation in the County and notice given to contiguous land owners a minimum of fifteen (15) days before the hearing.

During the public hearing, the Planning Commission shall review any written comments received and shall give any person attending the hearing an opportunity to comment on the proposed vacation. At the conclusion of the hearing and after consideration of all comments, written and oral, the Planning Commission shall make a recommendation that the Request to Vacate be approved, approved with conditions, or denied. Conditions for approval or reasons for denial shall be clearly stated. This recommendation shall be forwarded to the Board of County Commissioners.

- E. Action by the Board of County Commissioners. Within thirty (30) days of the Planning Commission review and recommendation, the vacation and recommendation of the Planning Commission shall be presented to the Board of County Commissioners for approval, approval with conditions, or denial.

In approving the vacation of all or a part of a final plat, the Board of County Commissioners shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated.

In approving the vacation of all or a portion of a final plat, the Board of County Commissioners may require that roads and easements dedicated to the County in the final plat continue to be dedicated to the County.

- F. **Filing.** The approved statement declaring the vacation of a portion or all of a final plat or survey, if one was required, shall be filed in the office of the County Clerk. The County Clerk shall mark the final plat with the words Vacated or Partially Vacated and refer on the final plat to the volume and page on which the statement of vacation is recorded.
- G. **Utilities.** The rights of any utility existing before the total or partial vacation of any final plat are not affected by the vacation of a final plat.

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### Section 7.3 Variances

- A. **Planned development area.** The Board of County Commissioners may grant a variance from the standards and requirements of these Regulations if it is presented with a plan and program for a land division, or a new town, a complete community, which, in the judgment of the Board of County Commissioners, provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants and other legal provisions as will assure conformity to and achievement of the plan.
- B. **Conditions and limitations.** A variance shall not be granted which will cause the Board of County Commissioners to absorb costs over and above those typically associated with subdivision approval. In granting variances, the Board of County Commissioners may require such conditions as will:
1. Substantially secure the objectives of the standards of these Regulations; and
  2. Not adversely affect the health, safety, and general welfare of the public, if otherwise consistent with the general purpose and intent of these Regulations and if not injurious or detrimental to the surrounding area.
- C. **Procedures.** The following procedures and requirements shall apply to all requests for variances under these Regulations.
1. Requests for variances shall be submitted in writing prior to or at the time of request for plat approval on the prescribed form available from the Planning Coordinator for that purpose, and upon payment of the required administrative fee.
  2. Variance requests shall be reviewed in public hearings at the same time public hearings are held for approval of the plat.
  3. Notice of the request for variance shall be given in the same manner as notice is provided for any public hearing required in these Regulations and shall comply with the requirements of the Open Meetings Act of the State of New Mexico.
  4. Variance requests shall be submitted to the state or other reviewing agency having expertise in the subject matter for which the variance is sought, and shall be governed by the same time limits as set forth in Section 4.4 above.
  5. The Board of County Commissioners shall make written findings of fact regarding each of the requirements of these Regulations and shall produce those findings of facts as a portion of its decision and order on each request for variance.
  6. The decision and order shall be prepared, signed, and filed within five (5) working days after the public hearing at which the variance is considered.

### Section 7.4 Exemptions

- A. **Approval required.** It is unlawful for any person to divide a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease, or other conveyance or for building development, whether immediate or future, unless such person either obtains approval for a subdivision as provided in these Regulations or files and obtains approval for a Claim of Exemption as provided in this Article. Proof of exemption must be maintained in the form of a certificate of exemption as defined herein which is filed for record with the county clerk.

B. Verification of exemption.

1. Any person claiming entitlement to an exemption under the provisions of these Regulations shall file a written claim of exemption on the prescribed form available from the Planning Coordinator. Where there is more than one owner, all owners of record of the property involved shall file the Claim of Exemption. Written claim shall be filed with the office of the Board of County Commissioners before making the land division for which the Claim of Exemption is made.
2. The Planning Coordinator shall review the Claim of Exemption and supporting documents and shall mail written notice of whether the exemption has been approved or denied to the person claiming the exemption within thirty (30) days after receipt of the completed claim of exemption; provided, however, that the thirty (30) day period shall not begin to run until the person claiming the exemption has delivered a completed Claim of Exemption and all supporting documents to the Planning Coordinator.
3. If the Claim of Exemption is approved, or if the Planning Coordinator fails to mail written notice to the claimant within thirty (30) days after receipt of the completed Claim of Exemption and all supporting documents, the person claiming the exemption may divide the land in the manner proposed in the Claim of Exemption without complying with the provisions of these Regulations.

Approved Claims of Exemption shall be filed with the Otero County Clerk at the same time the conveyance document and/or survey is filed.

4. If the claim of exemption is denied, the person claiming the exemption may appeal the denial as provided in Article 13 of these Regulations or may submit an application for a subdivision as provided in these Regulations.

**Section 7.5 Protection of Cultural Properties, Archaeological Sites, and Unmarked Burials**

A. Unmarked human burials.

1. According to state policy, any human burial in the state in any unmarked burial ground is accorded the protection of law and shall receive appropriate and respectful treatment and disposition.
2. All subdividers shall comply with the requirements of § 18-6-11.2 NMSA 1978, which prohibits the knowing, willful, and intentional excavation, removal, disturbance, or destruction of any human burial buried, entombed, or sepulchered in any unmarked burial ground except by authority of a permit issued by the state medical investigator or by the state cultural properties review committee with the concurrence of the state archaeologist and state historic preservation officer.

B. Registered cultural properties. Any person desiring to subdivide land in the County shall review the latest edition of the State Register of Cultural Properties ("the Register") that has been provided to the County by the State Historic Preservation Division.

1. If there are no such properties entered in the Register that are within the boundaries of the proposed subdivision, the subdivider shall provide a signed affidavit to that effect in the application package for subdivision approval;
2. If any such properties entered in the Register exist within the boundaries of the proposed subdivision, the subdivider shall provide a signed affidavit to that effect in the application package for subdivision approval. The County will then consult with the Historic Preservation Division pursuant to the Cultural Properties Act, §§ 18-6-1 through 18-6-17 N.M.S.A. 1978.

**ARTICLE 8. REQUIRED IMPROVEMENTS**

**Section 8.1 Construction of Required Improvements**

- A. Improvement requirements. The subdivider shall install and construct such improvements, if any, as are required by these Regulations in the manner and to the design standards provided in these Regulations. Approval of the preliminary plat is authorization for the subdivider to proceed with the minimum improvements required by these Regulations. Before the

construction of any improvements or the submission of any bond or other improvement guarantee, the subdivider shall furnish the County with all plans necessary for the construction of such improvements. These plans shall be reviewed by the Board of County Commissioners and, if in accordance with these Regulations, shall be approved by the County, allowing the subdivision development to proceed.

- B. Improvement agreement. The County shall enter into a subdivision improvement agreement with a subdivider. This agreement shall constitute a binding contract between the subdivider and the County and shall contain those terms and conditions agreed to by the subdivider and the County. See Appendix A (Sample Agreement)

### Section 8.2 Road Development

- A. Construction schedule. Roads within a subdivision shall be constructed only on a schedule approved by the Board of County Commissioners which demonstrates that road construction will be complete prior to final plat approval. In approving or disapproving a subdivider's road construction schedule, the Board of County Commissioners shall consider:
1. the proposed use of the subdivision;
  2. the period of time before the roads will receive substantial use;
  3. the period of time before construction of homes will begin on the portion of the subdivision serviced by the road;
  4. the county regulations governing phased development; and
  5. the needs of prospective purchasers, lessees, and other persons acquiring an interest in subdivided land in viewing the land within the subdivision.
- B. Safety. All proposed roads shall conform to minimum County safety standards.
- C. Demonstration of use/access. The Board of County Commissioners shall not approve the grading or construction of roads unless and until the subdivider can reasonably demonstrate that the roads to be constructed are necessary to provide access to parcels or improvements. It is unlawful for the subdivider to grade or otherwise commence construction of roads unless the construction substantially conforms to the schedule of road development approved by the Board of County Commissioners.

### Section 8.3 Improvement Guarantees

- A. Assurance. In order for the County to be assured of completion of required improvements, the subdivider shall comply with 5.2 (B)(16) above, or in the case of a summary review plat, with section 6.4(C).

## ARTICLE 9 RECORDING PARCELS

- A. Authority. § 47-6-9(A)(17) NMSA 1978 requires counties to enact regulations for recording all conveyances of parcels with the County Clerk. As defined in the Act, the term "parcel" means "a unit of land capable of being described by location and boundaries and not dedicated for public or common use."
- B. Purpose. Recording conveyances of parcels provides anyone interested in acquiring land, and lenders, with important information about the condition of title. Recording conveyances of all parcels also provides public officials with information needed to detect illegal subdividing. The purpose of this information is to protect buyers and lenders and to help enforce the Act and these Regulations by making all conveyances of parcels matters of public record.
- C. Requirements. Any person who sells, leases for a term, including options in excess of five (5) years, or otherwise conveys any interest in any parcel located in whole or in part in the County shall record or have recorded the deed, lease, real estate contract, notice of lease, notice of real estate contract, or other document of conveyance with the County Clerk no later than five (5) days after the closing or thirty (30) days after the date on which the document is signed, whichever comes first. Deeds held in escrow pursuant to the terms of a real estate contract are not required to meet the recording deadlines as set out in this paragraph.
- D. Form and certification. Any deed, lease for a term, including options in excess of five (5) years, real estate contract, notice of lease, notice of real estate contract, or other document used to convey any interest in any parcel located in whole or in part in

the County shall be in a form acceptable for recording and duly acknowledged and certified as required by the provisions of §14-8-4 NMSA 1978.

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## ARTICLE 10 ADVERTISING STANDARDS

- A. **Filing requirements.** Copies of all brochures, publications, and advertising relating to subdivided land shall be filed with the Board of County Commissioners and the Attorney General within fifteen (15) days after initial use by the subdivider.
- B. **Requirements/restrictions.** Brochures, disclosure statements, publications, and advertising of any form relating to subdivided land shall:
1. not misrepresent or contain false or misleading statements of fact;
  2. not describe deeds, title insurance, or other items included in a transaction as "free" and shall not state that any parcel is "free" or given as an "award" or "prize" if any consideration is required for any reason;
  3. not describe parcels available for "closing costs only" or similar terms unless all such costs are accurately and completely itemized, or when additional parcels must be purchased at a higher price;
  4. not include an asterisk or other reference symbol as a means of contradicting or substantially changing any statement;
  5. accurately portray, if subdivision illustrations are used, the subdivision in its present state and, if illustrations are used portraying points of interest outside the subdivision, state the actual road miles from the subdivision;
  6. not contain artists' conceptions of the subdivision or any facilities within it unless clearly labeled as such, and shall not contain maps of the subdivision unless accurately drawn to scale with the scale indicated;
  7. not contain references to any facilities, points of interest or municipalities located outside the subdivision unless the distances from the subdivision are stated in the advertisement in actual road miles; and
  8. refer to the location where the subdividers disclosure statement may be obtained.

## ARTICLE 11 REQUIREMENTS PRIOR TO SALE, LEASE, OR OTHER CONVEYANCE

It is unlawful to sell, lease, or otherwise convey land within a subdivision before the following conditions have been met:

- A. **Final plat approval and filing.** The final plat has been approved by the Board of County Commissioners and filed with the County Clerk of the county in which the subdivision is located, or if a subdivision lies within more than one county, the final plat has been approved by the Board of County Commissioners of each county in which the subdivision is located and filed with the County Clerk of each county in which the subdivision is located.
- B. **Relevant documents.** Approved disclosure statements with attachments of all documents which will be used to convey an interest in the subdivided land have been approved and recorded as per the county regulation and procedures.
- C. **Permanent marks.** All corners of all parcels and blocks within a subdivision have been permanently marked with metal stakes in the ground and a reference stake placed beside one corner of each parcel.

## ARTICLE 12 ADMINISTRATIVE FEES

Administrative fees shall be established by Resolution of the Board of County Commissioners annually.

## ARTICLE 13 APPEALS

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### A. Who may appeal.

1. Any person who is adversely affected by a decision of the Planning Commission in approving or disapproving a subdivision plat, Claim of Exemption, Request to Vacate or variance may appeal to the Board of County Commissioners within fifteen (15) days after the date of the action of the Planning Commission. The Board of County Commissioners shall hear the appeal and render a decision within thirty (30) days after receiving the notice of appeal.
2. Any person who is adversely affected by a decision of the Board of County Commissioners in approving or disapproving a subdivision plat, Claim of Exemption, Request to Vacate or variance may appeal to the District Court of the county in which the subdivision is located within thirty (30) days after the date of the action of the Board.

### B. Appeal process.

1. The appeal shall consist of a whole record review, and the reviewing authority, whether it is the Board of County Commissioners or the District Court, shall set aside the action of the lower tribunal only if it is found to be:
  - a. arbitrary, capricious, or an abuse of discretion; or
  - b. not supported by substantial evidence; or
  - c. otherwise not in accordance with law.
2. Any party to the action in District Court shall have full appellate rights in accordance with the laws of the State of New Mexico and the rules of appellate procedure for the State of New Mexico.
3. The appeal shall be perfected by filing a written notice of appeal, which sets forth the specific portion or portions of the decision being appealed. A copy of the decision or order being appealed shall be attached to the notice of appeal. The appeal shall be perfected upon filing of the notice required by these Regulations and payment of the required administrative fee.

## ARTICLE 14 ENFORCEMENT, PENALTIES, AND REMEDIES

- A. Purpose and Authority. Violations of the provisions of these Regulations shall be prosecuted in the manner provided by law to protect the health, safety, and welfare of the public according to the County's authority under the New Mexico Subdivision Act, §§ 47-6-1 *et seq.*, NMSA 1978. The remedies provided in these Regulations shall be cumulative and not exclusive.
- B. Investigation of Alleged Violations. All written, signed complaints alleging one or more violations of the provisions of the New Mexico Subdivision Act or these Regulations shall be referred to the Board of County Commissioners for investigation. The Board of County Commissioners shall direct an investigation of the complaint and take such action as is warranted. The Board of County Commissioners shall inform the complainant in writing of what actions have been taken or will be taken in response to the complaint.
- C. Penalties and Remedies. Violations of these Regulations shall be subject to the following penalties, remedies, and enforcement procedures:
  1. **Utility connections.** Any water, sewer, electric, or gas utility that connects service to individual parcels within a subdivision before a final plat for the subdivision has been approved by the Board of County Commissioners or before the landowner holds a valid building permit, may be fined a civil penalty of up to five hundred dollars (\$500) by the Board of County Commissioners. The Board of County Commissioners may also require that any utility connected in violation of this section and of §47-6-27.2 NMSA 1978 be disconnected. Each connection may be deemed a separate offense.

2. **Suspension of Right of Sale.** The Board of County Commissioners may suspend or revoke approval of a plat as to unsold, unleased, or otherwise not conveyed portions of a subdivider's plat if the subdivider does not meet the schedule of compliance approved by the Board of County Commissioners.
3. **Injunctive Relief, Mandamus.** The Board of County Commissioners, the District Attorney, or the Attorney General may apply to the District Court for any one or more of the following remedies in connection with violations of the New Mexico Subdivision Act and these Regulations:
  - a. injunctive relief to prohibit a subdivider from selling, leasing, or otherwise conveying any interest in subdivided land until the subdivider complies with the terms of the New Mexico Subdivision Act and these Regulations;
  - b. injunctive relief to compel compliance by any person with the provisions of the New Mexico Subdivision Act and this Ordinance;
  - c. rescission and restitution for persons who have purchased, leased, or otherwise acquired an interest in subdivided land that was divided sold, leased, or otherwise conveyed in material violation of the New Mexico Subdivision Act and/or this Ordinance; or
  - d. a civil penalty of up to five-thousand dollars (\$5,000) for each parcel created in knowing, intentional, or willful violation of the New Mexico Subdivision Act or this Ordinance.
  - e. A writ of mandamus requiring specific performance or compliance with the New Mexico Subdivision Act or this ordinance.
4. **Bond not required.** The Board of County Commissioners, the District Attorney, and the Attorney General shall not be required to post bond when seeking a temporary or permanent injunction or mandamus according to the provisions of the New Mexico Subdivision Act.
5. **Criminal penalties.**
  - a. §47-6-27 NMSA 1978 provides that:
    - i) any person who knowingly, intentionally, or willfully commits a material violation of the New Mexico Subdivision Act is guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000) per violation, or by imprisonment for not more than one (1) year, or both; and
    - ii) any person who is convicted of a second or subsequent knowing, intentional, or willful violation of the New Mexico Subdivision Act is guilty of a fourth degree felony, punishable by a fine of not more than twenty-five thousand dollars (\$25,000) per violation or by imprisonment for not more than eighteen (18) months, or both.

## **ARTICLE 15 AMENDMENT**

These Regulations may be amended from time to time as conditions warrant. Amendments shall be made by ordinance adopted by the Board of County Commissioners in accordance with §4-37-1 *et seq.*, NMSA 1978 compilation as amended.

## **ARTICLE 16 SEVERABILITY**

The provisions of these Regulations are severable, and if any provision, sentence clause, section, or part hereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of these Regulations or their application to other persons or circumstances. It is hereby declared to be the intent of the County that these Regulations would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included herein, and if the person or circumstances to which these Regulations or any part thereof are inapplicable had been specifically exempted there from.

**ARTICLE 17 REPEAL AND EFFECTIVE DATE**

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These Regulations repeal Otero County Ordinance No. 07-02. These Regulations shall become effective 30 days after the date of recording in the Otero County Clerk's office.

ADOPTED this 24<sup>th</sup> day of June 2010.

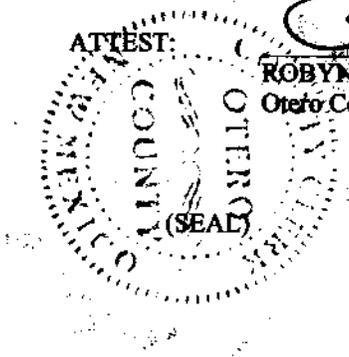
**BOARD OF COUNTY COMMISSIONERS OF OTERO COUNTY, NEW MEXICO**

BY:

*Doug Moore*  
\_\_\_\_\_  
DOUG MOORE  
Chairman

ATTEST:

*Robyn Holmes*  
\_\_\_\_\_  
ROBYN M. HOLMES  
Otero County Clerk



# **Appendix A to the Otero County Subdivision Regulations**

## **FORMS**

Adopted: June 24, 2010

**FORM A-1**

**PLAT CERTIFICATIONS**

These certificates must be shown on the plat in the format provided by this appendix to the Otero County Subdivision Regulations. The language in these certificates shall not be altered.

Plat certifications required for **Summary Review Plats**:

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**SURVEYOR'S CERTIFICATION**

I, \_\_\_\_\_, a New Mexico registered Professional Surveyor, certify that I conducted and am responsible for this survey, that this survey is true and correct to the best of my knowledge and belief, and that this survey and plat meet the Minimum Standards for Surveying in New Mexico.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

NMPS No. \_\_\_\_\_

**COUNTY PLANNING COMMISSION APPROVAL**

This plat has been submitted to, reviewed, and approved by the Otero County Planning Commission and is hereby approved for filing with the Otero County Clerk.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date

Plat certifications required for **preliminary plats**:

**SURVEYOR'S CERTIFICATION**

I, \_\_\_\_\_, a New Mexico registered Professional Surveyor, certify that I conducted and am responsible for this survey, that this survey is true and correct to the best of my knowledge and belief, and that this survey and plat meet the Minimum Standards for Surveying in New Mexico.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

NMPS No. \_\_\_\_\_

**BOARD OF COUNTY COMMISSIONERS APPROVAL**

This plat has been submitted to, reviewed, and approved by the Board of County Commissioners of Otero County.

\_\_\_\_\_  
Commission Chairman

\_\_\_\_\_  
Date of Approval

\_\_\_\_\_  
ATTEST: Otero County Clerk

\_\_\_\_\_  
Date

Plat certifications required for **final plats**:

**SURVEYOR'S CERTIFICATION**

I, \_\_\_\_\_, a New Mexico registered Professional Surveyor, certify that I conducted and am responsible for this survey, that this survey is true and correct to the best of my knowledge and belief, and that this survey and plat meet the Minimum Standards for Surveying in New Mexico.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

NMPS No. \_\_\_\_\_

**UTILITY COMPANY REVIEW**

Copies of this plat have been submitted to the following utility companies and are satisfactory to meet the needs of the installation of available utilities. This plat is approved for easement purposes only. The signing of this plat by utility companies does not guarantee utility services to the subdivision.

\_\_\_\_\_ Electric Power Company

By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Telephone Company

By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Cable TV Company (if applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Gas Company (if applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_

Other (if applicable): \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

**BOARD OF COUNTY COMMISSIONERS APPROVAL**

This plat has been submitted to, reviewed, and approved by the Board of County Commissioners of Otero County and is hereby approved for filing with the Otero County Clerk.

\_\_\_\_\_  
Commission Chairman

\_\_\_\_\_  
Date of Approval

\_\_\_\_\_  
ATTEST: Otero County Clerk

\_\_\_\_\_  
Date

Plat No. \_\_\_\_\_

Reception No. \_\_\_\_\_

STATE OF NEW MEXICO )  
COUNTY OF OTERO )

I hereby certify that this instrument was filed for record on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_m. and duly recorded in plat record \_\_\_\_\_, page(s) \_\_\_\_\_ in the Records of the Otero County Clerk and ex officio recorder of Otero County.

**FORM A-2**

**CLAIM OF EXEMPTION**

Claims of Exemption must be submitted on the form provided in this appendix to the Otero County Subdivision Regulations. The language of this form shall not be altered in any way.

**CLAIM OF EXEMPTION INSTRUCTIONS**

Instructions - Page 1

To claim an exemption from the requirements of the Otero County Subdivision Ordinance, **all owners of record of the property involved** must complete this form, sign it before a notary public, and submit the **entire form** (except for the instruction pages) together with legible copies of all required documents and the \$15.00 fee to the County Planning Coordinator. Please fill in the number of all exemptions, which apply and attach legible copies of all supporting documents. Failure to include all requested documentation will delay approval.

The Planning Coordinator will notify you in writing within thirty (30) days as to whether your claim of exemption has been granted, denied, or more information is needed. If the Claim of Exemption is granted, the original document will be completed and returned to you for filing with the Otero County Clerk. The original must be filed. If you wish to have the document returned to an agent (surveyor, real estate agent, etc.) upon being granted, please state the agent's name, telephone number, and mailing address in the appropriate space on this form. If you do not hear from the Planning Coordinator within thirty (30) days, you may proceed with the land division you propose without needing to comply with the requirements of the Otero County Subdivision Regulations. If your claim of exemption is denied, you may either seek approval of a subdivision or appeal the denial as provided in the Otero County Subdivision Regulations.

**EXEMPTIONS AND REQUIRED DOCUMENTATION**

<b>Exemption No.</b>	<b>Description and Required Documentation</b>
1	The sale, lease, or other conveyance of any parcel that is thirty-five (35) acres or larger in size within any twelve (12) month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with §7-36-20 NMSA 1978, for the preceding three (3) years. <b>ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF PARCEL OR COPY OF DEED PROPOSED FOR CONVEYING THE PARCEL.</b>
2	The sale or lease of apartments, offices, stores, or similar space within a building. <b>ATTACH COPIES OF ALL PROPOSED SALE OR LEASE DOCUMENTS.</b>
3	The division of land in which only gas, oil, mineral, or water rights are severed from the surface ownership of the land. <b>ATTACH COPIES OF ALL PROPOSED CONVEYANCING DOCUMENTS.</b>
4	The division of land created by court order where the order creates no more than one parcel per party. <b>ATTACH CERTIFIED COPY OF COURT ORDER.</b>
5	The division of land for grazing or farming activities provided that the land continues to be used for grazing or farming activities. <b>ATTACH COPY OF PROPOSED CONVEYANCING DOCUMENTS AND DOCUMENTS RESTRICTING FUTURE USE TO GRAZING OR FARMING ACTIVITIES. SUCH DOCUMENTS MUST CONTAIN A COVENANT RUNNING WITH THE LAND AND REVOCABLE ONLY BY MUTUAL CONSENT OF THE BOARD OF COUNTY COMMISSIONERS AND THE PROPERTY OWNER THAT THE DIVIDED LAND WILL BE USED EXCLUSIVELY FOR GRAZING OR FARMING ACTIVITIES. THE COVENANT MUST BE SIGNED BY THE PROPERTY OWNER(S), THE BUYER(S) OR LESSEE(S), AND THE BOARD OF COUNTY COMMISSIONERS AND MUST BE FILED OF RECORD WITH THE COUNTY CLERK.</b>
6	The division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased. <b>ATTACH CERTIFIED SURVEY SHOWING ALL PARCELS AND PARCEL BOUNDARIES BEFORE AND AFTER PROPOSED ALTERATION.</b>

7	The division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member. As used herein the term "immediate family member" means a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew, and niece, whether related by birth or adoption. <b>ATTACH COPY OF PROPOSED CONVEYANCING DOCUMENT AND BIRTH CERTIFICATE, ADOPTION CERTIFICATE, OR OTHER DOCUMENT DEMONSTRATING FAMILY RELATIONSHIP CLAIMED. BAPTISMAL CERTIFICATES ARE <u>NOT</u> ACCEPTABLE DOCUMENTATION.</b>
8	The division of land created to provide security for mortgages, liens, or deeds of trust; provided that the division is not the result of a seller-financed transaction. <b>ATTACH COPIES OF ALL FINANCING DOCUMENTS.</b>
9	The sale, lease, or other conveyance of land that creates no parcel smaller than one-hundred forty (140) acres. <b>ATTACH CERTIFIED SURVEY SHOWING LOCATION AND SIZE OF PARCEL(S) OR COPY OF DEED PROPOSED FOR CONVEYING THE PARCEL.</b>
10	The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in §501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college, or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching, or other specifically religious activity. <b>ATTACH COPIES OF I.R.S. EXEMPTION LETTER AND/OR OTHER I.R.S. DOCUMENTS DEMONSTRATING ENTITLEMENT TO EXEMPTION AND CERTIFIED SURVEY SHOWING LAND PROPOSED TO BE DONATED.</b>
11	The sale, lease, or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five (5) year period; provided that a second or subsequent sale, lease, or other conveyance from the same tract of land within five (5) years of the first sale, lease, or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act and these Regulations; provided further that a survey shall be filed with the Otero County Clerk indicating the five (5) year holding period for both the original tract and the newly created tract. <b>ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF ORIGINAL TRACT, PARCEL PROPOSED TO BE DIVIDED, ANY PARCELS PREVIOUSLY DIVIDED FROM THE ORIGINAL PARCEL AND DATES OF ALL DIVISIONS.</b>
12	The division of land to create burial plots for a cemetery. <b>ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF PLOT(S) TO BE USED FOR BURIAL PURPOSES ONLY.</b>

If a copy of a certified survey is not required and does not accompany the Claim of Exemption, the **exact** legal description of the property involved must be inserted in the appropriate space on the Claim of Exemption.

**CLAIM OF EXEMPTION**

I/We, \_\_\_\_\_  
(List all owners of record.)

\_\_\_\_\_, claim an exemption from the requirements of the New Mexico Subdivision Act and the Otero County Subdivision Regulations for the following reason(s). I certify that this transaction involves Exemption No(s) \_\_\_\_\_. The property involved in this sale is described as follows: *(Insert exact legal description or note attachments.)*

I further certify that the information provided by me in this Claim of Exemption is true and correct and that all documents attached to or enclosed with this Claim of Exemption are originals or true, complete, and correct copies of the originals. *(Use separate page, if necessary, to list all owners of record.)*

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Print your name here \_\_\_\_\_

Print your name here \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Telephone number(s) \_\_\_\_\_

Telephone number(s) \_\_\_\_\_

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_  
NOTARY PUBLIC

**PLEASE FILE this Claim of Exemption at the time of filing the instrument of conveyance.**

This claim has been approved	Otero County Case No. _____
Date: _____	Otero County _____

\*\*\*\*\*

STATE OF NEW MEXICO, County of Otero, ss. I hereby certify that this instrument was filed for record on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_m., and duly recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, of the Records of said County.

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
County Clerk

Return original document to:

REC DATE: 7/2/10 REC TIME: 8:42:44 AM INSTR#: 201005727 CLK: *lee*  
OTERO COUNTY, ROBYN HOLMES COUNTY CLERK PAGE 39 OF 125

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street Address or P.O. Box

City, State, Zip Code

Telephone Number(s): \_\_\_\_\_

**FOR OFFICIAL USE ONLY**

The foregoing Claim of Exemption is **incomplete**. Please provide us with the following information and/or documents so that we can process your claim:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The foregoing Claim of Exemption is hereby **denied** for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Otero County \_\_\_\_\_

**FOR OFFICIAL USE ONLY**

**FORM A-3**

**APPLICATION FOR SUMMARY REVIEW PLAT APPROVAL**

Application for summary review plat approval must be made on the form provided in this appendix to the Otero County Subdivision Regulations. The language of this form shall not be altered in any way.

**OTERO COUNTY SUBDIVISION REGULATIONS  
APPLICATION FOR SUMMARY REVIEW PLAT APPROVAL**

**INSTRUCTIONS**

Print or type clearly. Use additional sheets if necessary. All required attachments shall be submitted with this application form. Incomplete or inaccurate applications may delay decision dates. The completed application package must be submitted to the County Planning Coordinator by the subdivider or a designated agent and shall be in compliance with the requirements of the County Subdivision Regulations. Each application must be accompanied by the required administrative fee, summary review plat, and any other documentation required in Article 6 and the Appendices to these Regulations.

**NAME OF SUBDIVISION:**

**APPLICANT INFORMATION**

1. Subdivider Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
*(include street address or P.O. box, city, state, and zip code)*  
Telephone Number(s): \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_
2. Engineer/Surveyor Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
*(include street address or P.O. box, city, state, and zip code)*  
Telephone Number(s): \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

**SUBDIVISION INFORMATION**

3. Location of Subdivision *(attach map if necessary)*
4. This is a:  Type Three  Type Five Subdivision *(check one)*
5. Number of lots: \_\_\_\_\_ Total acreage: \_\_\_\_\_ acres Size of smallest lot: \_\_\_\_\_ acres
6. Does this subdivision lie within the extraterritorial jurisdiction of a municipality or village?  Yes  No  
If yes, name of municipality or village having concurrent jurisdiction:  
\_\_\_\_\_

**FORM A-4**

**APPLICATION FOR PRELIMINARY PLAT APPROVAL**

Application for preliminary plat approval must be made on the form provided in this appendix to the Otero County Subdivision Regulations. The language of this form shall not be altered in any way.

**OTERO COUNTY SUBDIVISION REGULATIONS  
APPLICATION FOR PRELIMINARY PLAT APPROVAL**

For subdivisions containing more than five (5) parcels.

**INSTRUCTIONS**

Print or type clearly. Use additional sheets if necessary. All required attachments and supporting documentation shall be submitted with this application form. Incomplete or inaccurate applications may delay public hearing or decision dates. The completed application package must be submitted to the County Planning Coordinator by the subdivider or a designated agent and shall be in compliance with the requirements of the Otero County Subdivision Regulations. Each application must be accompanied by the required administrative fee.

**NAME OF SUBDIVISION:**

**APPLICANT INFORMATION**

1. Subdivider Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
*Street Address or P.O. Box*  
\_\_\_\_\_  
*City State Zip Code*  
Telephone Number(s): \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_
  
2. Agent (if any) Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
*Street Address or P.O. Box*  
\_\_\_\_\_  
*City State Zip Code*  
Telephone Number(s): \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_
  
3. Engineer/Surveyor Name:  
Address: \_\_\_\_\_  
*Street Address or P.O. Box*  
\_\_\_\_\_  
*City State Zip Code*  
Telephone Number(s): \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

**SUBDIVISION INFORMATION**

REC DATE: 7/2/10 REC TIME: 8:42:44 AM INSTR#: 201005727 CLK: *lee*  
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4. Name of Subdivision: \_\_\_\_\_

This is a (check one):  New Subdivision  Resubdivision  
 Succeeding Subdivision  Phased Subdivision

5. This is a Type  One  Two  Three ( ) Three A  Four Subdivision (check one)

6. Number of lots: \_\_\_\_\_ Total acreage: \_\_\_\_\_ acres Size of smallest lot: \_\_\_\_\_ acres

7. Does this subdivision lie within the extraterritorial zone of a municipality or village?  
 Yes  No

If Yes, name of municipality or village having concurrent jurisdiction: \_\_\_\_\_

**FORM A-5**

**APPLICATION FOR FINAL PLAT APPROVAL**

Application for final plat approval must be made on the form provided in this appendix to the Otero County Subdivision Regulations. The language of this form shall not be altered in any way.

**OTERO COUNTY SUBDIVISION REGULATIONS  
APPLICATION FOR FINAL PLAT APPROVAL**

**INSTRUCTIONS**

Print or type clearly. Use additional sheets if necessary. All required attachments shall be submitted with this application form. Incomplete or inaccurate applications may delay decision dates. The completed application package must be submitted to the County Planning Coordinator by the subdivider or a designated agent and shall be in compliance with the requirements of the County Subdivision Regulations.

NAME OF SUBDIVISION: \_\_\_\_\_

**GENERAL INFORMATION**

1. This is a Type \_\_\_\_\_ Subdivision                      Number of Lots: \_\_\_\_\_                      Total acreage \_\_\_\_\_ acres

2. Subdivider or Agent Name: \_\_\_\_\_

Address: \_\_\_\_\_

*Street Address or P.O. Box*

*City*

*State*

*Zip Code*

Telephone Number(s): \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

3. Engineer/Surveyor Name: Address:

Address: \_\_\_\_\_

*Street Address or P.O. Box*

*City*

*State*

*Zip Code*

Telephone Number(s): \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Telephone Number(s): \_\_\_\_\_

**SUPPLEMENTAL INFORMATION**

4. Have any changes to the proposed subdivision been made since the preliminary plat was approved?

Yes                       No

If yes, please attach a detailed explanation of such changes.

5. Have the required improvements been completed? \_\_\_\_\_

If not, attach improvement agreement to ensure completion of required improvements.

**FORM A-6**

**DISCLOSURE STATEMENT FOR SUBDIVISIONS  
CONTAINING FIVE OR FEWER PARCELS**

Disclosure statements must be prepared on the forms provided in this appendix to the Otero County Subdivision Regulations. The language of these disclosure statements shall not be altered in any way.

**DISCLOSURE STATEMENT**

FOR ALL SUBDIVISIONS CONTAINING FIVE AND FEWER PARCELS.

**YOU SHOULD READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING.**

This disclosure statement is intended to provide you with enough information to make an informed decision on the purchase, lease or acquisition of the property described in this statement. You should read carefully all of the information contained in this disclosure statement before you decide to buy, lease or otherwise acquire the described property.

Various public agencies may have issued opinions on both the subdivision proposal and the information contained in this disclosure statement. Summaries of these opinions are contained in this disclosure statement. They may be favorable or unfavorable. You should read them closely.

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

The Board of County Commissioners recommends that you inspect the property before buying, leasing, or otherwise acquiring it.

**If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days to rescind the transaction and receive all your money back from the subdivider when merchantable title is revested in the subdivider. To rescind the transaction you must give the subdivider written notice of your intent to rescind within three (3) days after the date of your inspection of the property.**

County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the Otero County Clerk.

**Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease, or otherwise acquire an interest in the land. You should also determine whether such permits are requirements for construction of additional improvements before you occupy the property.**

1. **NAME OF SUBDIVISION:** \_\_\_\_\_

2. **SUBDIVIDER INFORMATION**

Name of Subdivider(s): \_\_\_\_\_

Address: \_\_\_\_\_  
*Street Address or P.O. Box*

\_\_\_\_\_  
*City State Zip Code*

**3. CONDITION OF TITLE**

**Please answer all of the following that are applicable:**

Number of mortgages existing on the property being subdivided: \_\_\_\_\_

Name and address of each mortgagee, and balance owing and summary of release provisions on each mortgage:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Number of real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser: \_\_\_\_\_

For each real estate contract held on the subdivided land for which the subdivider is making payments as a purchaser, please state the name and address of each person holding the contract, balance owing on each real estate contract, and summary of default and release provisions of each real estate contract: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Statement of any other encumbrances on the land: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Statement of any other conditions relevant to the state of title: \_\_\_\_\_

\_\_\_\_\_

**4. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD THAT SUBJECT THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY**

State here all deed and plat restrictions affecting the subdivided land: \_\_\_\_\_

\_\_\_\_\_

Are there restrictive covenants for this subdivision?  Yes  No

If yes, attach copy of restrictive covenants to this disclosure statement.

**5. UTILITIES**

Name of entity providing electricity: \_\_\_\_\_

Please describe availability of electric service. Is electric service available to each parcel in the subdivision? If electric service is available to some but not all parcels in the subdivision, please state which parcels it will be available to: \_\_\_\_\_

\_\_\_\_\_

Electric utilities are:  above-ground  below-ground

Who is responsible for providing electric service to individual parcels?  
 Subdivider  Purchaser/Lessee

Gas service:  Propane  Natural

If natural gas is available, name of entity providing service: \_\_\_\_\_

Is natural gas service available to each parcel in the subdivision? If gas service is available to some but not all parcels in the subdivision, please state which parcels it will be available to: \_\_\_\_\_

Gas utilities are:  above-ground  below-ground

Who is responsible for providing gas service (either natural or propane) to individual parcels.?"  
 Subdivider  Purchaser/Lessee

Water:  Well  Shared well  Community system

Who is responsible for providing water service to individual parcels?  
 Subdivider  Purchaser/Lessee

*If water is to be provided by well or shared well, complete Section 9 of this form.  
If water is provided by a community system, complete Section 8 of this form.*

Is telephone service available to this subdivision?  Yes  No

Name of entity providing telephone service: \_\_\_\_\_

Please describe availability of telephone service. Is telephone service available to each parcel in the subdivision? If telephone service is available to some but not all parcels in the subdivision, please state which parcels it will be available to: \_\_\_\_\_

Who is responsible for providing telephone service to individual parcels?  
 Subdivider  Purchaser/Lessee

Telephone utilities are:  above-ground  below-ground

Method of liquid waste disposal:  septic tank  Community System

Who is responsible for providing liquid waste disposal service to individual parcels?  
 Subdivider  Purchaser/Lessee

*Complete Section 10 of this form.*

*Lee*

Method of solid waste disposal:  Responsibility of Purchaser/Lessee  
 Responsibility of Subdivider

If purchaser/lessee is responsible for solid waste disposal, please state the address of the nearest Convenience Center or approved landfill and its distance in miles from the subdivision and/or the location of the nearest dumpster if a collection system is in use: \_\_\_\_\_  
\_\_\_\_\_

If subdivider is providing solid waste disposal, please describe the method or system to be used and the location of the landfill to be used: \_\_\_\_\_  
\_\_\_\_\_

**6. INSTALLATION OF UTILITIES**

Please state whether the following utilities are currently available to the subdivision (this question does not include availability to individual parcels). If not available at this time, state the date of installation of each utility:

Electricity:  Now available  
 Date to be installed: \_\_\_\_\_

Natural gas:  Now available  
 Date to be installed: \_\_\_\_\_

Water:  Now available  
 Date to be installed: \_\_\_\_\_

Telephone:  Now available  
 Date to be installed: \_\_\_\_\_

Liquid waste disposal:  Now available  
 Date to be installed: \_\_\_\_\_

**7. WATER AVAILABILITY**

Will water be used for anything other than domestic purposes, based on one family per lot?

Yes  No

If yes, describe water use (multi-family lots, orchards, farming, etc.): \_\_\_\_\_  
\_\_\_\_\_

Describe the availability and sources of water to meet the subdivision's maximum annual water requirements:

---

---

---

Describe the means of water delivery within the subdivision:

---

---

Describe any limitations and restrictions on water use in the subdivision:

---

---

Summarize the provisions of any restrictive covenants or other restrictions requiring the use of water saving fixtures and other water conservation measures: \_\_\_\_\_

---

Describe what measures (such as meters), if any, will be employed to monitor or restrict water use in the subdivision: \_\_\_\_\_

---

**8. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS**

**If no community water system is to be used in this subdivision, please skip to the next question.**

Name and address of entity providing water: \_\_\_\_\_

---

Source of water and means of delivery: \_\_\_\_\_

---

Summary of any legal restrictions on either indoor or outdoor usage: \_\_\_\_\_

---

Statement that individual wells are prohibited, if such is the case: \_\_\_\_\_

---

---

9. **FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS (if applicable)**

State whether wells will be provided by the subdivider or by the prospective purchaser/lessee:

\_\_\_\_\_

If wells are provided by purchaser/lessee, state the estimated cost to complete a domestic well, including drilling, pressure tank, control devices, storage and treatment facilities: \_\_\_\_\_

\_\_\_\_\_

If wells are provided by the subdivider, state the cost, if any to the purchaser/lessee: \_\_\_\_\_

\_\_\_\_\_

Summary of legal restrictions on either indoor or outdoor usage: \_\_\_\_\_

\_\_\_\_\_

Average depth to groundwater and the minimum and maximum well depths to be reasonably expected:

\_\_\_\_\_

\_\_\_\_\_

10. **LIQUID WASTE DISPOSAL**

Describe the precise type of liquid waste disposal system that is proposed for use within the subdivision:

\_\_\_\_\_

\_\_\_\_\_

Describe the responsibilities of both subdivider and purchaser/lessee in installing liquid waste disposal system: \_\_\_\_\_

\_\_\_\_\_

**NOTE: NO LIQUID WASTE DISPOSAL SYSTEM MAY BE USED IN THIS SUBDIVISION OTHER THAN A SYSTEM APPROVED FOR USE IN THIS SUBDIVISION BY THE BOARD OF COUNTY COMMISSIONERS AND THE NEW MEXICO ENVIRONMENT DEPARTMENT.**

11. **TERRAIN MANAGEMENT**

Describe the suitability for residential use of the soils in the subdivision as defined in the Natural Resource Conservation District's soil survey for Otero County: \_\_\_\_\_

\_\_\_\_\_

Describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures: \_\_\_\_\_

\_\_\_\_\_

Identify by lot and block numbers all parcels within the subdivision that are subject to flooding:

\_\_\_\_\_

Identify by lot and block numbers all parcels within the subdivision located in whole or in part on slopes in excess of 8%: \_\_\_\_\_

\_\_\_\_\_

Describe the surface drainage for all lots in the subdivision: \_\_\_\_\_

\_\_\_\_\_

Describe the subsurface drainage for all lots in the subdivision as contained in the Natural Resource Conservation Soil Survey: \_\_\_\_\_

\_\_\_\_\_

Describe the nature, location and completion dates of all storm drainage systems constructed or required to be constructed in the subdivision: \_\_\_\_\_

\_\_\_\_\_

**12. SUBDIVISION ACCESS**

Name of town or village nearest to subdivision: \_\_\_\_\_

Distance in miles from nearest town to subdivision and the general route over which that distance is computed: \_\_\_\_\_

\_\_\_\_\_

Describe access roads to the subdivision, including approximate width and surfacing: \_\_\_\_\_

\_\_\_\_\_

State whether or not subdivision is accessible by conventional vehicle and whether it is accessible at all times of the year; also state any weather conditions that could affect access to the subdivision and any measures that will be necessary to gain access during these conditions: \_\_\_\_\_

\_\_\_\_\_

Describe roads within the subdivision, including width and surfacing: \_\_\_\_\_

\_\_\_\_\_

Does the subdivider propose to submit the roads within the subdivision to the County for maintenance?

Yes       No

**THIS DOES NOT GUARANTEE THAT ROADS WILL BE ACCEPTED FOR MAINTENANCE BY THE COUNTY.**

For roads proposed to be privately maintained or until the County accepts roads for public maintenance, who is responsible for maintenance of the roads?  Subdivider  Purchaser

State how the roads will be maintained, describe any responsibilities and obligations lot owners will have with respect to road maintenance, and describe the measures taken to make sure that maintenance of the roads takes place (include responsibilities of property owners' association, if applicable): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Who is responsible for maintenance of other improvements within the subdivision (water systems, parks, etc.)?

Subdivider  Purchaser

State how the improvements will be maintained, describe any responsibilities and obligations lot owners will have with respect to maintenance of improvements, and describe the measures taken to make sure that maintenance of the improvements takes place (include responsibilities of property owners' association, if applicable): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTE: UNDER NEW MEXICO STATE LAW, LAND OWNERS ARE RESPONSIBLE FOR PROVIDING THEIR OWN FENCE IF THEY WANT TO KEEP LIVESTOCK OUT.**

**13. CONSTRUCTION GUARANTEES (if applicable)**

Describe any proposed roads, drainage structures, water treatment facilities or other improvements that will not be completed before parcels in the subdivision are offered for sale: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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**FORM A-7**

**DISCLOSURE STATEMENT FOR SUBDIVISIONS  
CONTAINING MORE THAN FIVE PARCELS**

Disclosure statements must be prepared on the forms provided in this appendix to the Otero County Subdivision Regulations. The language of these disclosure statements shall not be altered in any way.

**DISCLOSURE STATEMENT**

FOR ALL SUBDIVISIONS CONTAINING MORE THAN FIVE (5) PARCELS.

**YOU SHOULD READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING.**

This disclosure statement is intended to provide you with enough information to make an informed decision on the purchase, lease or acquisition of the property described in this statement. You should read carefully all of the information contained in this disclosure statement before you decide to buy, lease or otherwise acquire the described property.

Various public agencies may have issued opinions on both the subdivision proposal and the information contained in this disclosure statement. Summaries of these opinions are contained in this disclosure statement. They may be favorable or unfavorable. You should read them closely.

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

The Board of County Commissioners recommends that you inspect the property before buying, leasing or otherwise acquiring it.

**If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days to rescind the transaction and receive all your money back from the subdivider when merchantable title is reverted in the subdivider. To rescind the transaction you must give the subdivider written notice of your intent to rescind within three (3) days after the date of your inspection of the property.**

County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the Otero County Clerk.

**Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease, or otherwise acquire an interest in the land. You should also determine whether such permits are requirements for construction of additional improvements before you occupy the property.**

1. **NAME OF SUBDIVISION:** \_\_\_\_\_

2. **SUBDIVIDER INFORMATION**

Name of Subdivider(s): \_\_\_\_\_

Address: \_\_\_\_\_  
*Street Address or P.O. Box*

\_\_\_\_\_  
*City State Zip Code*

**3. IN CHARGE OF SALES, LEASING, OR OTHER NAME AND ADDRESS OF PERSON CONVEYANCE IN NEW MEXICO**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

*Street Address or P.O. Box*

*City*

*State*

*Zip Code*

Telephone Number(s): \_\_\_\_\_

**4. SIZE OF SUBDIVISION, BOTH PRESENT AND ANTICIPATED**

Present

Anticipated

Number of parcels: \_\_\_\_\_

Number of parcels: \_\_\_\_\_

Number of acres: \_\_\_\_\_

Number of acres: \_\_\_\_\_

**5. SIZE (IN ACRES) OF LARGEST PARCEL OFFERED FOR SALE, LEASE OR CONVEYANCE WITHIN THE SUBDIVISION: \_\_\_\_\_**

**6. SIZE (IN ACRES) OF SMALLEST PARCEL OFFERED FOR SALE, LEASE OR CONVEYANCE WITHIN THE SUBDIVISION: \_\_\_\_\_**

**7. PROPOSED RANGE OF PRICES FOR SALES, LEASES OR OTHER CONVEYANCES:**

Lowest dollar amount: \_\_\_\_\_

Parcel size (in acres): \_\_\_\_\_

Highest dollar amount: \_\_\_\_\_

Parcel size (in acres): \_\_\_\_\_

**8. FINANCING TERMS**

Is owner financing available?

Yes

No

If Yes, please provide any information required by the Truth in Lending Act and Regulation Z:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**9. NAME AND ADDRESS OF PERSON WHO IS RECORDED AS HAVING LEGAL TITLE: Name:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

*Street Address or P.O. Box*

*City*

*State*

*Zip Code*

**NOTE: IF ANY OF THE HOLDERS OF LEGAL TITLE NAMED ABOVE IS A CORPORATION OR PARTNERSHIP, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION AND/OR PARTNERS IN THE PARTNERSHIP, INCLUDING DESIGNATION OF MANAGING PARTNER.**

**10. NAME AND ADDRESS OF PERSON WHO IS RECORDED AS HAVING EQUITABLE TITLE (if different from answer in Question 9):**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

*Street Address or P.O. Box*

*City*

*State*

*Zip Code*

**NOTE: IF ANY OF THE HOLDERS OF EQUITABLE TITLE NAMED ABOVE IS A CORPORATION OR PARTNERSHIP, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION AND/OR PARTNERS IN THE PARTNERSHIP, INCLUDING DESIGNATION OF MANAGING PARTNER.**

**11. CONDITION OF TITLE**

Include at least the following information where applicable:

Number of mortgages: \_\_\_\_\_

Name and address of each mortgagee: \_\_\_\_\_

Balance owing and summary of release provisions for each mortgage: \_\_\_\_\_

Number of real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser: \_\_\_\_\_

Name and address of each person holding a real estate contract as owner of the subdivided land for which the subdivider is making payments as a purchaser: \_\_\_\_\_

Balance owing on each real estate contract: \_\_\_\_\_

Summary of default and release provisions of each real estate contract: \_\_\_\_\_

Statement of any other encumbrances on the land: \_\_\_\_\_

Statement of any other conditions relevant to the state of title: \_\_\_\_\_

**12. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD THAT SUBJECT THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY**

State here all deed and plat restrictions affecting the subdivided land: \_\_\_\_\_

Are there restrictive covenants for this subdivision?  Yes  No  
If yes, attach copy of restrictive covenants to this disclosure statement.

**13. ESCROW AGENT**

Has an escrow agent been assigned?  Yes  No  
If answer is Yes, answer the rest of this question; if answer is No, skip to Question 14.

Name of escrow agent: \_\_\_\_\_

Address: \_\_\_\_\_

*Street Address or P.O. Box*

*City*

*State*

*Zip Code*

Statement of whether or not the subdivider has any interest in or financial ties to the escrow agent: \_\_\_\_\_

**14. UTILITIES**

Name of entity providing electricity: \_\_\_\_\_

Please describe availability of electric service. Is electric service available to each parcel in the subdivision? If electric service is available to some but not all parcels in the subdivision, please state which parcels it will be available to: \_\_\_\_\_

*lee*

Electric utilities are:  above-ground  below-ground

Who is responsible for providing electric service to individual parcels?

Subdivider  Purchaser/Lessee

If Purchaser/Lessee is responsible, state estimated cost of installation of electric service: \_\_\_\_\_

Gas service:  Propane  Natural

If natural gas is available, name of entity providing service: \_\_\_\_\_

Is natural gas service available to each parcel in the subdivision? If gas service is available to some but not all parcels in the subdivision, please state which parcels it will be available to: \_\_\_\_\_

Gas utilities are:  above-ground  below-ground

Who is responsible for providing gas service (either natural or propane) to individual parcels.?

Subdivider  Purchaser/Lessee

If Purchaser/Lessee is responsible, state estimated cost of installation of electric service: \_\_\_\_\_

Water:  Well  Shared well  Community system

Who is responsible for providing water service to individual parcels?

Subdivider  Purchaser/Lessee

*If water is to be provided by well or shared well, complete Section 9 of this form.*

*If water is provided by a community system, complete Section 8 of this form.*

Is telephone service available to this subdivision?  Yes  No

Name of entity providing telephone service: \_\_\_\_\_

Please describe availability of telephone service. Is telephone service available to each parcel in the subdivision? If telephone service is available to some but not all parcels in the subdivision, please state which parcels it will be available to: \_\_\_\_\_

Who is responsible for providing telephone service to individual parcels?

Subdivider  Purchaser/Lessee

If Purchaser/Lessee is responsible, state estimated cost of installation of electric service: \_\_\_\_\_

Telephone utilities are:  above-ground  below-ground

Method of liquid waste disposal:  septic tank  Community System

Who is responsible for providing liquid waste disposal service to individual parcels?

Subdivider  Purchaser/Lessee

*Complete Section 24 of this form.*

**15. INSTALLATION OF UTILITIES**

Please state whether the following utilities are currently available to the subdivision (this question does not include availability to individual parcels). If not available at this time, state the date of installation of each utility:

Electricity:  Now available  
 Date to be installed: \_\_\_\_\_

Natural gas:  Now available  
 Date to be installed: \_\_\_\_\_

Water:  Now available  
 Date to be installed: \_\_\_\_\_

Telephone:  Now available  
 Date to be installed: \_\_\_\_\_

Liquid waste disposal:  Now available  
 Date to be installed: \_\_\_\_\_

Other:  Now available  
 Date to be installed: \_\_\_\_\_

**16. WATER AVAILABILITY**

Describe the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses: \_\_\_\_\_

Describe the availability and sources of water to meet the subdivision's maximum annual water requirements:

---

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---

Describe the means of water delivery within the subdivision: \_\_\_\_\_

---

Describe any limitations and restrictions on water use in the subdivision: \_\_\_\_\_

---

Summarize the provisions of any restrictive covenants or other restrictions requiring the use of water saving fixtures and other water conservation measures: \_\_\_\_\_

---

---

Describe what measures, if any, will be employed to monitor or restrict water use in the subdivision:

---

---

**17. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS**

Name and address of entity providing water: \_\_\_\_\_

---

Source of water and means of delivery: \_\_\_\_\_

---

Summary of any legal restrictions on either indoor or outdoor usage: \_\_\_\_\_

---

Statement that individual wells are prohibited, if such is the case: \_\_\_\_\_

---

**18. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS**

State whether wells will be provided by the subdivider or by the prospective purchaser/lessee:

---

If wells are provided by purchaser/lessee, state the estimated cost to complete a domestic well, including drilling, pressure tank, control devices, storage and treatment facilities: \_\_\_\_\_

\_\_\_\_\_

If wells are provided by the subdivider, state the cost, if any to the purchaser/lessee/conveyee: \_\_\_\_\_

\_\_\_\_\_

Summary of legal restrictions on either indoor or outdoor usage: \_\_\_\_\_

\_\_\_\_\_

Recommended total depth of well: \_\_\_\_\_

Average depth to groundwater and the minimum and maximum well depths to be reasonably expected: \_\_\_\_\_

\_\_\_\_\_

Recommended total depth of well: \_\_\_\_\_

Estimated yield in gallons per minute of wells completed to recommended total depth: \_\_\_\_\_

**19. LIFE EXPECTANCY OF WATER SUPPLY**

State the life expectancy of each source of water supply for the subdivision under full development of the subdivision: \_\_\_\_\_

**20. SURFACE WATER\***

\*Not applicable where subdivider intends to provide water for domestic use.

Provide a detailed statement of the source and yield of the surface water supply and any restrictions to which the surface water supply is subject: \_\_\_\_\_

**21. NEW MEXICO STATE ENGINEER'S OPINION ON WATER AVAILABILITY**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico State Engineer regarding:

Whether or not the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses: \_\_\_\_\_

Whether or not the subdivider can fulfill the proposals in this disclosure statement concerning water, excepting water quality: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**22. WATER QUALITY**

Describe the quality of water in the subdivision available for human consumption: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe any quality that would make the water unsuitable for use within the subdivision: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

State each maximum allowable water quality parameter that has been exceeded with the approval of the Board of County Commissioners and the name of the element, compound or standard that has exceeded that parameter: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**23. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON WATER QUALITY**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

Whether or not the subdivider can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Whether or not the subdivider can fulfill the water quality proposal made in this disclosure statement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Whether or not the subdivider's proposal for water quality conforms to the County's water quality regulations: \_\_\_\_\_

\_\_\_\_\_

**24. LIQUID WASTE DISPOSAL**

Describe the precise type of liquid waste disposal system that is proposed and that has been approved by the Board of County Commissioners for use within the subdivision: \_\_\_\_\_

\_\_\_\_\_

**NOTE: NO LIQUID WASTE DISPOSAL SYSTEM MAY BE USED IN THIS SUBDIVISION OTHER THAN A SYSTEM APPROVED FOR USE IN THIS SUBDIVISION BY THE BOARD OF COUNTY COMMISSIONERS**

**25. N.M. ENVIRONMENT DEPARTMENT'S OPINION ON LIQUID WASTE DISPOSAL**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

Whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations: \_\_\_\_\_

\_\_\_\_\_

Whether or not the subdivider can fulfill the liquid waste proposals made in this disclosure statement:

\_\_\_\_\_

Whether or not the subdivider's proposal for liquid waste disposal conforms to the County's liquid waste disposal regulations: \_\_\_\_\_

\_\_\_\_\_

**26. SOLID WASTE DISPOSAL**

Solid waste disposal:  Responsibility of Purchaser/Lessee

Responsibility of Subdivider

If purchaser/lessee is responsible for solid waste disposal, please state the address of the nearest Convenience Center or approved landfill and its distance in miles from the subdivision and/or the location of the nearest dumpster if a collection system is in use: \_\_\_\_\_

\_\_\_\_\_

If subdivider is providing solid waste disposal, please describe the method or system to be used and the location of the landfill to be used: \_\_\_\_\_

\_\_\_\_\_

**27. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON SOLID WASTE DISPOSAL**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

Whether or not there are sufficient solid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations: \_\_\_\_\_

\_\_\_\_\_

Whether or not the subdivider can fulfill the solid waste proposals made in this disclosure statement:

\_\_\_\_\_

Whether or not the subdivider's proposal for solid waste disposal conforms to the County's solid waste disposal regulations: \_\_\_\_\_

\_\_\_\_\_

**28. TERRAIN MANAGEMENT**

Describe the suitability for residential use of the soils in the subdivision as defined in the Natural Resource Conservation Service's soil survey for Otero County: \_\_\_\_\_

\_\_\_\_\_

Describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures: \_\_\_\_\_

\_\_\_\_\_

Identify by lot and block numbers all parcels within the subdivision that are subject to flooding:

\_\_\_\_\_

Identify by lot and block numbers all parcels within the subdivision located in whole or in part on slopes in excess of 8%: \_\_\_\_\_

*lee*

Describe the surface drainage for all lots in the subdivision: \_\_\_\_\_

Describe the subsurface drainage for all lots in the subdivision (as per the Natural Resources Conservation Service's soil survey for Otero County): \_\_\_\_\_

Describe the nature, location and completion dates of all storm drainage systems constructed or required to be constructed in the subdivision: \_\_\_\_\_

**29. SOIL AND WATER CONSERVATION DISTRICT'S OPINION ON TERRAIN MANAGEMENT**

Include here the approved summary of the opinion received by the Board of County Commissioners from the Soil & Water Conservation District on:

Whether or not the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage and soil erosion: \_\_\_\_\_

Whether or not the subdivider can satisfy the terrain management proposals made in this disclosure statement: \_\_\_\_\_

Whether or not the subdivider's terrain management proposals conform to the County's regulations on terrain management: \_\_\_\_\_

**30. SUBDIVISION ACCESS**

Name of town or village nearest to subdivision: \_\_\_\_\_

Distance in miles from nearest town to subdivision and the general route over which that distance is computed: \_\_\_\_\_

Describe access roads to subdivision, including approximate width and surfacing: \_\_\_\_\_

State whether or not subdivision is accessible by conventional vehicle and whether it is accessible at all times of the year; also state any weather conditions that could affect access to the subdivision and any measures that will be necessary to gain access during these conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe the width and surfacing of all roads within the subdivision: \_\_\_\_\_  
\_\_\_\_\_

31. MAINTENANCE

Does the subdivider propose to submit the roads within the subdivision to the County for maintenance?

Yes       No

**THIS DOES NOT GUARANTEE THAT ROADS WILL BE ACCEPTED FOR MAINTENANCE BY THE COUNTY.**

For roads proposed to be privately maintained or until the County accepts roads for public maintenance, who is responsible for maintenance of the roads?       Subdivider       Purchaser

State how the roads will be maintained, describe any responsibilities and obligations lot owners will have with respect to road maintenance, and describe the measures taken to make sure that maintenance of the roads takes place (include responsibilities of property owners' association, if applicable): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Who is responsible for maintenance of other improvements within the subdivision (water systems, parks, etc.)?

Subdivider       Purchaser

State how the improvements will be maintained, describe any responsibilities and obligations lot owners will have with respect to maintenance of improvements, and describe the measures taken to make sure that maintenance of the improvements takes place (include responsibility of property owners' association, if applicable): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTE: UNDER NEW MEXICO STATE LAW, LAND OWNERS ARE RESPONSIBLE FOR PROVIDING THEIR OWN FENCE IF THEY WANT TO KEEP LIVESTOCK OUT.**

**32. STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS**

Include here the approved summary of the opinion received by the Board of County Commissioners from the State Highway and Transportation Department on:

Whether or not the subdivider can fulfill the state highway access requirements for the subdivision in conformity with state regulations: \_\_\_\_\_  
\_\_\_\_\_

Whether or not the subdivider can satisfy the access proposal made in this disclosure statement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Whether or not the subdivider's access proposals conform to the County's regulations on access: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**33. CONSTRUCTION GUARANTEES**

Describe any proposed roads, drainage structures, water treatment facilities or other improvements that will not be completed before parcels in the subdivision are offered for sale: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe or attach all performance bonds, letters of credit or other collateral securing the completion of each proposed improvement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**UNLESS THERE IS SUFFICIENT BOND, LETTER OF CREDIT OR OTHER ADEQUATE COLLATERAL TO SECURE THE COMPLETION OF PROPOSED IMPROVEMENTS, IT IS POSSIBLE THAT THE PROPOSED IMPROVEMENTS WILL NOT BE COMPLETED. CAUTION IS ADVISED.**

**34. ADVERSE OR UNUSUAL CONDITIONS**

State any activities or conditions adjacent to or nearby the subdivision, such as feed lots, dairies, cement plants or airports, that would subject the subdivided land to any unusual conditions affecting its use or occupancy: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**35. RECREATIONAL FACILITIES**

Describe all recreational facilities, actual and proposed in the subdivision, and state the estimated date of completion of each: \_\_\_\_\_  
\_\_\_\_\_

State whether or not there are any bonds, letters of credit or other collateral securing the construction of each proposed recreational facility and describe or attach any such bond, letter of credit or other collateral:  
\_\_\_\_\_  
\_\_\_\_\_

**36. FIRE PROTECTION**

Name of nearest fire station:  Municipality \_\_\_\_\_  
 Volunteer \_\_\_\_\_

Distance to nearest fire station from subdivision and route over which distance is computed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**37. POLICE PROTECTION**

Show the various law enforcement agencies having jurisdiction in the area of the subdivision:  
 NM State Police     Otero County Sheriffs Department     \_\_\_\_\_ Police Department

**38. PUBLIC SCHOOLS**

Name of and distance (in miles) to nearest public elementary school serving the subdivision:  
\_\_\_\_\_  
\_\_\_\_\_

Name of and distance to nearest public junior high or middle school serving the subdivision:  
\_\_\_\_\_  
\_\_\_\_\_

Name of and distance to nearest public high school serving the subdivision:  
\_\_\_\_\_  
\_\_\_\_\_



**FORM A-8**

**AFFIDAVITS FOR REVIEW OF EASEMENTS  
BY UTILITY COMPANIES**

Affidavits for Review of Easements must be prepared on the forms provided in this appendix to the Otero County Subdivision Regulations. The language of these forms shall not be altered in any way.

**AFFIDAVIT**

By signing below, the following utility companies certify that the **Preliminary** plat for the \_\_\_\_\_ Subdivision has been reviewed and that the platted easements are satisfactory to meet the needs of the installation of utilities. The signing of this affidavit does not in any way guarantee utility services to the subdivision.

\_\_\_\_\_  
By: \_\_\_\_\_ Electric/Power Company  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_ Telephone Company  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_ Gas Company (If applicable)  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_ Cable TV Co. (If applicable)  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_ Other  
Date: \_\_\_\_\_

**AFFIDAVIT**

By signing below, the following utility companies certify that the **Summary Review** plat for the \_\_\_\_\_ Subdivision has been reviewed and that the platted easements are satisfactory to meet the needs of the installation of utilities. The signing of this affidavit does not in any way guarantee utility services to the subdivision.

\_\_\_\_\_ Electric/Power Company

By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Telephone Company

By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Gas Company (If applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Cable TV Co. (If applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Other

By: \_\_\_\_\_ Date: \_\_\_\_\_

**FORM A-9**

**AFFIDAVIT FOR NOTIFICATION OF REVIEW  
OF STATE REGISTER OF CULTURAL PROPERTIES**

Affidavits for Notification of Review of State Register of Cultural Properties must be prepared on the form provided in this appendix to the Otero County Subdivision Regulations. The language of this form shall not be altered in any way.



**Form A-10**

**CHECKLIST FOR PRELIMINARY PLAT**

This checklist shall be used by the Planning Coordinator in assuring that the preliminary plat is complete for review and shall be submitted to the Planning Commission with the review materials.

**PRELIMINARY PLAT CHECK LIST**

Subdivision Name _____			
Subdivision Type _____	Date Submitted _____	Incomplete	Complete
A. Fee and completed application.		_____	_____
B. Verification that taxes are not delinquent and are paid in full to date.		_____	_____
C. Check Preliminary Plat for the following:			
1. Title (subdivision's name), scale, north arrow, with all pages including Topography, any Grading Plans, and Road Construction Plan prominently labeled "Preliminary Plat" and numbered in sequence (i.e. Pl of 1 or Pl of 4 etc); date of plat including month, day and year (mo/da/yr) plus date of survey (mo/yr) prominently marked.		_____	_____
2. Legal description including Section, Township, and Range within which the subdivision is located.		_____	_____
3. Location of subdivision in relation to well-known landmarks (vicinity map).		_____	_____
4. Existing and proposed tract boundary lines in bearings and distances with ties to permanent markers		_____	_____
5. All lots and blocks (if any), numbered in sequence, and other sites with acreage and accurate dimensions.		_____	_____
6. The location, dimensions, and purpose of all easements, dedicated sites, easements of record, book & page.		_____	_____
7. Names, right-of-way widths and centerline data of existing and proposed roads or other right-of-ways in and adjacent to the subdivision.		_____	_____
8. Existing and proposed utilities on and adjacent to the subdivision.		_____	_____
8. Locations, dimensions, and purpose of any land to be dedicated to public use, including any improvements to be made to that land.		_____	_____
10. Location of any registered archaeological or culturally significant features on the site.		_____	_____
11. Delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency (FEMA).		_____	_____
12. Names and addresses of the property owners of the land to be subdivided; the subdivider if other than the owner; the land surveyor.		_____	_____
13. Names of owners of contiguous land parcels.		_____	_____
13. The surveyor's certification (in the format provided in Appendix A of these Regulations) attesting to the compliance of the plat and accuracy of the survey, with the date of survey.		_____	_____
14. The certification (in the format provided in Appendix A of these Regulations) for Board of County Commissioners approval.		_____	_____
15. Existing topography and any grading plans, indicating contour intervals sufficient to determine and evaluate surface water drainage and existing flow paths, arroyos and culverts through the subdivision; existing improvements.		_____	_____
D. Road Construction Plan.		_____	_____

By:

\_\_\_\_\_  
 Subdivision Coordinator

\_\_\_\_\_  
 Date

**Form A-11**

**CHECKLIST FOR FINAL PLAT**

This checklist shall be used by the Planning Coordinator in assuring that the final plat is complete.

**FINAL PLAT CHECK LIST**

Subdivision Name	_____		
Subdivision Type	Date Submitted	Incomplete	Complete
A. Fee and completed application.		_____	_____
B. Verification that taxes are not delinquent and are paid in full to date.		_____	_____
C. Check Final Plat for the following:			
1. Title (subdivision's name), scale, north arrow, with all pages including Topography, any Plans, and Road Construction Plan prominently labeled "Preliminary Plat" and numbered in sequence (i.e. P1 of 1 or P1 of 4 etc); date of plat including month, day and year (mo/da/yr) plus date of survey (mo/yr) prominently marked.		_____	_____
2. Legal description including Range, Township, and Section within which the subdivision is located.		_____	_____
3. Location of subdivision in relation to well-known landmarks (vicinity map).		_____	_____
4. Permanent monuments, or description and ties to such monuments, to which all dimensions, etc. are referred.		_____	_____
5. Tract boundary lines, easements and right-of-way lines, lot lines & other sites.		_____	_____
6. Accurate description of legal access to, roads to, & utility easements for each parcel, recording data.		_____	_____
7. Names, right-of-way widths and centerline data for each road or other right-of-ways.		_____	_____
8. Location, dimensions, and purposes of all easements and dedicated public sites.		_____	_____
9. Number of each parcel and blocks in progression, with acreage and dimensions, locations, dimensions, and purpose of all land to be dedicated to public use, or for the use of other owners.		_____	_____
10. Names of the owners of contiguous unplatted land.		_____	_____
11. Location of any registered archaeological or culturally significant features on the site.		_____	_____
12. Delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency (FEMA).		_____	_____
13. Names and addresses of the property owners of the land to be subdivided; the subdivider if other than the owner; and the land surveyor.		_____	_____
14. The certification (in the format provided in Appendix A) of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of survey.		_____	_____
15. The certification (in the format provided in Appendix A of these Regulations) demonstrating that all utility companies have reviewed the plat and approved utility easements.		_____	_____

Incomplete Complete

16. A certificate by the Otero County Board of Commissioners or their designated representative certifying that The subdivider has complied with one of the following:
1. All improvements have been installed in accordance with the requirements of this Ordinance OR;
  2. A performance bond, certificate of deposit or other security as approved by the Board of County Commissioners must be filed with the County Clerk in sufficient amount to assure completion of developer-provided improvements. The bond shall be based on engineering cost estimates. The performance bond will not be required after acceptance of a Maintenance Bond;
  3. The maintenance bond in the amount of 15% of the performance bond must be filed and continued for the two-year test period of the developer-provided improvements after preliminary acceptance and until final acceptance by the Board of County Commissioners.
  4. Entered into a contract with the Board of County Commissioners guaranteeing successful completion of all improvements.
- D. Two (2) copies of plat printed on sheets no larger than 24"x36", at a scale of 200' to 1" or larger, final disclosure Statement and supporting document, verified in compliance with this checklist accepted by the Subdivision Coordinator on this date:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By:

\_\_\_\_\_  
Subdivision Coordinator

\_\_\_\_\_  
Date

**Form A-12**

**CHECKLIST FOR SUMMARY REVIEW PLAT**

This checklist shall be used by the Planning Coordinator in assuring that the summary review plat is complete for review and shall be submitted to the Planning Commission with the review materials.

**SUMMARY REVIEW PLAT CHECK LIST**

Subdivision Name _____			
Subdivision Type _____	Date Submitted _____	Incomplete	Complete
A. Fee and completed application.		_____	_____
B. Verification that taxes are not delinquent and are paid in full to date.		_____	_____
C. Check Summary Review Plat for the following:			
1. Title (subdivision's name), scale, north arrow, with all pages including Topography, any Plans, and Road Construction Plan prominently labeled "Summary Review Plat" and numbered in sequence (i.e. Pl of 1 or Pl of 4 etc); date of plat including month, day and year (mo/da/yr) plus date of survey (mo/yr) prominently marked.		_____	_____
2. Legal description including Range, Township, and Section within which the subdivision is located.		_____	_____
3. Location of subdivision in relation to well-known landmarks (vicinity map).		_____	_____
4. Subdivision boundary lines, easement and right-of-way lines & lines of all lots with ties to permanent markers.		_____	_____
5. Acreage measurements and identification numbers for each lot.		_____	_____
6. The location, dimensions, and purpose of all easements, dedicated sites, easements of record, book & page.		_____	_____
7. Delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency (FEMA).		_____	_____
8. Existing and proposed utilities on and adjacent to the subdivision.		_____	_____
9. Locations, dimensions and purpose of any land to be dedicated to public use, including any improvements to be made to the land.		_____	_____
10. Location of any registered archaeological or culturally significant features on the site.		_____	_____
11. Names and addresses of the owners of the land to be subdivided and of contiguous property, the subdivider if other than the owner, and the land surveyor.		_____	_____
12. A vicinity map showing the relationship of the subdivision site to its general surroundings, and the location of all existing drainage Channels, water and erosion control structures, watercourses and water bodies within three (3) miles of the subdivision on a U.S. Geological Survey map, scale 1:24000 (may be in disclosure statement).		_____	_____
13. Existing topography and any regarding plans, with contour intervals sufficient to evaluate drainage and existing flow paths, arroyos and Culverts and existing improvements and surface features.		_____	_____
14. The surveyor's certification (in the format provided in Appendix A of these Regulations) attesting to the compliance of the plat and accuracy of the survey, with the date of survey.		_____	_____
15. The certification (in the format provided in Appendix A of these Regulations) for Board of County Commissioners approval.		_____	_____

- 16. Certification by the Otero County Administrator or his designated Representative (in the format provided in Appendix A) that the Subdivider has complied with Article 8 of these Regulations and that The plat is approved for filing. \_\_\_\_\_
- D. Road Construction Plans. \_\_\_\_\_
- E. Ten (10) copies of the plat printed on sheets no larger than 24"x36" at a scale of 200' to 1" or larger verified in compliance with this checklist accepted by the Subdivision Coordinator on this date: \_\_\_\_\_

By:

\_\_\_\_\_  
Subdivision Coordinator

\_\_\_\_\_  
Date

**COUNTY SUBDIVIDER'S CONTRACT**

**THIS AGREEMENT** (hereinafter referred to as "the Agreement") is made by and between \_\_\_\_\_, (Developer or owner), (hereinafter referred to as "the Subdivider"), and Otero County, New Mexico, (hereinafter referred to as "the County") on the date set forth opposite the signature of each party but is effective on the date of approval of the final plat of \_\_\_\_\_ (subdivision name).

**WHEREAS**, the Subdivider has applied for approval for a subdivision known as \_\_\_\_\_, (hereinafter referred to as "the Subdivision"), located within the boundaries and the planning and platting jurisdiction of the County; and,

**WHEREAS**, the Subdivider and the County wish to enter into a contract in accordance with the provisions of Section 5.4C, of the *County of Ordinance 07-02 of Otero County, New Mexico*.

**NOW, THEREFORE**, in consideration of the mutual benefits to be derived by the parties hereto, the County and the Subdivider agree as follows:

1. The Subdivider agrees to abide by and comply with the final layout and drawings as finally approved by the County and to complete the Subdivision in accordance with the final plans and specifications as approved by the County.

2. The Subdivider agrees to install all roads, utilities and other improvements required by Ordinance 07-02, of the *Code of Ordinances of Otero County, New Mexico*, according to the minimum standards specified in *Ordinance 07-02 of Otero County, New Mexico*, (hereinafter referred to as "the Regulations") each as amended and currently in effect at the time installation is begun, within two years from the date of approval of the Subdivision. The Subdivider further agrees to provide record drawings of the streets, utilities and other improvements required by *Ordinance 07-02 of Otero County, New Mexico*, when their installation is completed.

3. For a period ending one year after the County accepts the subdivision improvements for maintenance(after 20% occupancy), the Subdivider agrees to make all repairs to the construction work and replace all defective material or workmanship which may become apparent before or after the Subdivision shall have been completed and accepted by the County; and no acceptance or approval by the

County, its engineer or other agent or employee shall relieve the Subdivider from his obligations. The County shall not be deemed to have waived any of the requirements of this Ordinance by virtue of its acceptance of any easement or right-of-way from the Subdivider.

4. Within the Subdivision, and if required by this ordinance, the subdivider agrees to supply and install at his own expense required water lines of approved size, weight and quality in accordance with the County standards, as amended or updated.

5. The Subdivider agrees to protect drainage structures, to build bridges, culverts and such other drainage facilities in the area as may be necessary to protect the Subdivision, the County, and other lands in the area from floods by reason of such development.

6. The Subdivider agrees to compact all backfill, especially in roads, to ninety-five percent (95%) of density as determined by the modified Proctor method. Six (6) months after completion, the Subdivider shall regrade and repair, if required, or directed, all backfill.

7. The Subdivider agrees to lay and construct all required basecourse and paving, using standard specifications, and to connect such improvements with the existing roads as may be required by the County.

8. The Subdivider agrees to repair all damages to existing roads and utility lines, at no expense to the County.

9. The Subdivider agrees to use materials of good quality in performing the work and in developing and completing the Subdivision. The Subdivider further agrees to have laboratory tests performed as may be required by the County and to furnish reports of such tests to the County. Tests and samples shall be taken and analyzed by methods prescribed by the American Society for Testing Materials, or the American Association of State Highway Officials. The Subdivider shall agree to pay for such tests.

10. The Subdivider agrees that all work and/or utilities improvements regarding the Subdivision shall be performed and/or installed by the Subdivider in accordance with the Regulations and shall be subject to inspection and approval by the County and its duly designated agents and/or employees during the progress of the work. The Subdivider also agrees to pay to the City, upon approval of the final



subdivision plat and/or plans and specifications for utility installations to be done hereunder, the sum of one and one-half percent (1½%) of the estimated cost of all work and/or utilities improvements regarding the Subdivision, such costs to be established by the County at its sole discretion, for the County's expenses in connection with such checking and inspection. This inspection fee shall not be in lieu of the record drawings or any improvements required of the Subdivider.

11. The covenants under the Agreement shall be covenants running with the land and shall constitute a lien on the land in favor of the County to the extent of the cost of installing water lines and installing roads, and otherwise conforming to all the requirements of the Regulations. This lien shall not arise until the Subdivider is in default and the County has incurred costs or other obligations toward the construction of required improvements. The lien shall include interest at the statutory rate until the date of payment.

12. The Subdivider agrees that, prior to the occupancy of any homes or other structures in any given block of the Subdivision, all roads and all other work to be performed and/or constructed by the Subdivider pursuant to the Agreement shall be completed on that block.

13. The Agreement shall be binding upon the parties hereto, their respective heirs, assigns, successors, administrators and personal representatives.

14. The remedies provided herein are not exclusive and, in the event of breach, the County shall be entitled to pursue any other remedies provided by law.

15. The Subdivider and the County agree that the Agreement is to be interpreted according to the laws of the State of New Mexico and that the proper venue for any litigation regarding the Agreement shall be in Otero County, New Mexico.

**EXECUTED** on the dates set forth below.

**OWNER / DEVELOPER:**

Date: \_\_\_\_\_

By: \_\_\_\_\_

**OTERO COUNTY , NEW MEXICO**

Date: \_\_\_\_\_

By: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
County Attorney

STATE OF NEW MEXICO    )  
  ) ss.  
COUNTY OF OTERO        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, on behalf of the entity.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

## **Appendix B to the Otero County Subdivision Regulations**

### **WATER QUALITY AND LIQUID AND SOLID WASTE DISPOSAL REQUIREMENTS**

Adopted: June 24, 2010

**APPENDIX B**

**WATER QUALITY AND LIQUID AND SOLID WASTE DISPOSAL REQUIREMENTS**

<b>alternative disposal system</b>	Means an individual liquid waste disposal system which is not a conventional disposal system. It is commonly used where limiting soil conditions exist. Some examples of alternative disposal systems are deep trench, seepage pit, fill, sand filter, sand mound, evapotranspiration, and land application.
<b>arroyo</b>	Means a dry wash or draw which flows only occasionally.
<b>bedrock</b>	Means consolidated earth materials. It includes fractured and cavernous rock.
<b>black water</b>	Means waste from a liquid flushing toilet, urinal, or garbage disposal.
<b>body of water</b>	Means all contained water including water situated wholly or partly within or bordering the state, whether surface or subsurface, public or private.
<b>canal</b>	Means a man-made ditch or channel that carries water for purposes other than domestic consumption.
<b>cesspool</b>	Means an excavation or non-water-tight unit which receives water carried liquid waste allowing direct discharge to the soil.
<b>clearance</b>	Means the thickness of suitable soil between any portion of a liquid waste disposal system and the seasonal high ground watertable, bedrock, or other limiting layer.
<b>community liquid waste system</b>	Means a liquid waste system which receives a design flow of more than two thousand (2,000) gallons of liquid waste per day. It is subject to the Water Quality Control Commission Regulations.
<b>conventional disposal system</b>	Means an individual liquid waste disposal system that is a below grade soil absorption system with an excavated depth no deeper than four (4) feet from the ground surface. Some examples of conventional disposal systems are absorption trenches and seepage beds.
<b>degrade a body of water</b>	Means to reduce the physical, chemical, or biological qualities of a body of water. It includes the release of material which could result in the exceeding of standards established in the Water Quality Standards for Interstate and Intrastate Streams, by the Water Quality Control Commission Regulations, and by the Drinking Water Regulations.
<b>design flow</b>	Means the liquid waste flow rate for which a liquid waste system must be designed in order to assure acceptable system performance. It is generally governed by regulations, standards, codes, and accepted references.
<b>Director</b>	Means the Director of the New Mexico Environment Department or his or her designated representative.
<b>disposal system</b>	Means a generally recognized system for disposing of the discharge from a liquid waste treatment unit and includes, but is not limited to, seepage pits, drain fields, evapotranspiration systems, sand mounds, and sand filters.

<b>edge of a watercourse, canal, arroyo</b>	Means that point of maximum curvature at the upper edge of a bank or, if no definite bank or exists, the highest point where signs of seasonal high water flow exist.
<b>effluent disposal well</b>	Means a drilled, driven, or bored shaft or dug hole with depth greater than any surface dimension, used for subsurface emplacement of liquid waste including, but not limited to, abandoned water supply wells, irrigation wells, and test holes but excluding seepage pits used as disposal systems which conform to - the standards in the New Mexico Uniform Plumbing Code.
<b>enclosed system</b>	Means a watertight liquid waste system which does not discharge to the soil including, but not limited to, holding tanks.
<b>engineer</b>	Means a person authorized to practice professional engineering in the State of New Mexico.
<b>established liquid waste system</b>	Means a liquid waste system on the property in question which has been in use in the ten (10) years prior to the date of consideration.
<b>evapotranspiration system</b>	Means a disposal system designed to dispose of all the design flow from a liquid waste treatment unit through evaporation and plant transpiration.
<b>flood plain</b>	Means any area which will be flooded by high water from a one hundred (100) year frequency storm, as indicated on the applicable FEMA, FIRM.
<b>grey water</b>	Means water-carried waste from kitchen (excluding garbage disposal) and bathroom sinks, showers, bathtubs, and washing machines.
<b>ground water</b>	Means interstitial water which occurs in saturated earth material. It is capable of entering a well in sufficient amounts to be utilized as a water supply.
<b>hazard to public health</b>	Means the indicated presence in water or soil of chemical, biological or other agents under such conditions that they may adversely impact human health. Hazards include, but are not limited to, cases of surfacing liquid waste, contamination of a domestic water supply source, presence of an open cesspool or tank, or exposure of liquid waste or septage in a manner that allows transmission of disease.
<b>holding tank</b>	Means a watertight tank designed to receive and retain liquid waste for periodic pumping and disposal off-site.
<b>individual liquid waste system</b>	Means a liquid waste system which receives a design flow of two thousand (2,000) or less gallons of liquid waste per day. It is subject to the Liquid Waste Disposal Regulations.
<b>interstitial water</b>	Means water in spaces between solid earth particles.
<b>limiting layer</b>	Means a layer of soil which is unsuitable for filtration or transmission of liquid waste and includes, but is not limited to, soil with a percolation rate faster than one (1) minute per inch or soils with a percolation rate slower than one-hundred twenty (120) minutes per inch.
<b>liner</b>	Means a manufactured or naturally occurring substance which restricts seepage to no greater than 0.5 acre-foot per year per acre over the design service life of the lined unit.
<b>liquid waste</b>	Means human excreta and water-carried wastes from typical residential plumbing fixtures and activities including, but not limited to, wastes from toilets, sinks, bath fixtures, clothes and dish washing machines, and floor drains. Water carried wastes from nonresidential sources shall be considered liquid waste if the composition and concentrations of waste do not differ from typical domestic wastewaters. Specifically excluded from the definition of liquid waste

are commercial process wastewaters, roof drainage, and wastes containing high concentrations of stabilizing or deodorizing agents.

- liquid waste disposal system** Means a component of a liquid waste system which disposes of the discharge from a liquid waste treatment system.
- liquid waste system** Means a system which is designed, constructed, operated, and maintained to receive, treat, and dispose of liquid wastes. It usually consists of collection, treatment, and disposal components.
- liquid waste treatment system** Means a component of a liquid waste system which removes, reduces, or alters the objectionable constituents of liquid waste.
- lot** Means a single parcel or area of land excluding roadways, legally recorded or validated by other means, where liquid waste will be generated or disposed.
- modify** Means: 1) to change the method of liquid waste treatment or disposal; 2) to enlarge the liquid waste system; 3) to alter the horizontal or vertical location of the liquid waste system, 4) to increase the amount of design flow received by the liquid waste system above the original design flow; or 5) to remove or replace component materials in a disposal system.
- net lot size** Means the area of a lot excluding any area dedicated by easement or use to provide vehicular passage to one or more lot or more than five (5) residential or commercial units on a single lot.
- off-site water** Means that the domestic water supply for the lot is from: 1) a private water supply, source which is neither within the lot nor within one-hundred feet (100') of the property line of the lot; or 2) a public water supply source which is not within the lot.
- on-site water** Means that the domestic water supply for the lot is from: 1) a private water supply source which is within the lot or within one hundred feet (100') of the property line of the lot or 2) a public water supply source which is within the boundaries of the lot.
- percolation rate** Means the rate of entry of water into soil. It is determined from a standard percolation test performed on the soil at the depth of the proposed soil absorption system.
- person** Means any individual, partnership, firm, public or private corporation, association, trust, estate, the state or any political subdivision or agency, federal agency, or any other legal entity or their legal representative, agent, or assign.
- potential source of contamination** Means any source which could release substances resulting in the degradation of a body of water and a hazard to public health.
- private water supply source** Means a water supply source such as a well, spring, infiltration gallery, or surface water withdrawal point used to provide water to a water supply system, if such system does not have at least fifteen (15) service connections and does not serve an average of twenty-five (25) individuals at least sixty (60) days during the year.
- private water supply system** Means a water supply system that has less than fifteen (15) service connections or serves less than twenty-five (25) individuals.
- privy** Means a receptacle for non-liquid-carried excreta. It allows direct discharge to the soil.

<b>public water supply source</b>	Means a water supply source such as a well, spring, infiltration gallery, or surface water intake structure used to provide water to a public water supply system for human consumption if the system served has at least fifteen (15) service connections or regularly services an average of twenty-five (25) individuals at least sixty (60) days out of the year.
<b>public water supply system</b>	Means a water system which has at least fifteen (15) service connections or serves at least twenty-five (25) individuals. It is subject to the Drinking Water Regulations.
<b>representative water sample</b>	Means a water sample which can be expected to reflect the current quality of the water proposed for use within the subdivision. A water sample (and water quality analysis) more than three (3) years old is not considered representative.
<b>roadway</b>	Means any area of land dedicated by easement or use to provide vehicular passage serving more than one (1) lot or more than five (5) residential or commercial units on a single property.
<b>seasonal high ground water table</b>	Means the highest level to which the upper surface of the ground water may be expected to rise within a one (1) year period.
<b>septage</b>	Means the residual wastes and water periodically pumped from a liquid waste treatment unit or from a holding tank for maintenance purposes.
<b>setback distance</b>	Means a straight line, horizontal distance measured from the liquid waste system or portion thereof to the object being considered.
<b>soil survey</b>	Means a national cooperative soil survey conducted by the USDA, Natural Resources Conservation Service in cooperation with the state agricultural experiment station and other federal and state agencies, or any other survey containing information of comparable quality and detail following the national standards for an Order 2 survey.
<b>solid waste</b>	Means any garbage, rubbish, or other discarded material which results from residential, commercial, institutional, industrial, or recreational activities. Systems for the collection, transportation, and disposal of solid waste are subject to the Solid Waste Management Regulations.
<b>suitable soil</b>	Means a soil, whether naturally occurring or introduced, which will act as an effective filter in removal of organisms and suspended solids prior to the discharge reaching ground water, bedrock or a limiting layer, and which will provide adequate transmission to prevent surfacing of the discharge. Suitable soils are minimally characterized by percolation rates between one (1) and one hundred twenty (120) minutes per inch.
<b>total design flow</b>	Means the sum of liquid waste design flows for all liquid waste systems on a lot. The maximum total design flow (gallons per day) permitted on any lot is determined by multiplying the net lot size (acres) by five hundred (500).
<b>treatment unit</b>	Means a watertight unit designed, constructed, and installed to retain solids and to stabilize liquid waste and includes, but is not limited to, aerobic treatment units and septic tanks.
<b>water supply system or</b>	Means a system which is designed, constructed, operated, and
<b>water system</b>	maintained to provide water suitable for domestic uses. It usually consists of source, treatment, transmission, storage, pumping, and distribution facilities.
<b>watercourse</b>	Means any river, creek, arroyo, draw, wash, irrigation ditch, or any other channel having definite banks and bed with visible evidence of at least an occasional flow of water.

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**INTERPRETATION:** The definitions in this appendix shall be construed so as to achieve the purpose of these regulations.

## **B.2 WATER QUALITY DOCUMENTATION**

For a subdivider to document conformance with the water quality requirements of this appendix and the New Mexico Subdivision Act, a water quality documentation package shall accompany the preliminary plat submittal.

A. The water quality documentation package shall:

1. state the subdivider's name and mailing address;
2. state the date the package was completed;
3. state the subdivider's proposal for meeting the water quality requirements of this appendix;
4. be accompanied by a copy of the subdivider's disclosure statement on water quality,
5. be accompanied by the information listed in Subsections B, C, or D of this section as applicable to the water supply proposal; and
6. be accompanied by other relevant information as may be necessary for the determination of compliance with the water quality requirements of this appendix.

B. If a new public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package.

1. a water quality analysis of a representative water sample for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;
2. for areas where contamination of the proposed source water has been documented, a water quality analysis of a representative water sample for the applicable water quality parameters;
3. the location and description of the source of water sampled for the water quality analysis;
4. an engineer's report and preliminary plans for the proposed public water supply system; and
5. maps identifying and showing the location of all potential sources of contamination and the flood plain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed water supply system source.

C. If a connection to and extension of an existing public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package.

1. a water quality analysis of a representative water sample for alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;
2. a statement of availability of water service signed by an official of the existing public water supply system; and
3. an engineer's report and preliminary plans for the proposed water system.

D. If private water supply systems are proposed, the following information shall be submitted as part of the water quality documentation package:

1. for subdivisions with more than 5 lots, a water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, copper, cyanide, fluorides, lead, mercury, nickel, nitrates, nitrites, selenium, thallium, pH, and total dissolved solids;

2. for all subdivisions in areas where contamination of the proposed source water has been documented, a water quality analysis of a representative water sample for the applicable water quality parameters;
  3. the location and description of the source of water sampled for the water quality analysis;
  4. preliminary engineering plans for the private water supply systems if the system will serve more than one (1) connection; and
  5. the location of all known sources of contamination and the flood plain of all watercourses and surface bodies of water within the subdivision and within five hundred (500) feet of the proposed subdivision boundaries.
- E. Documentation of approval for the new construction or modification of a public water supply system from the New Mexico Environment Department will be required for final plat approval.
- F. Proposals for a subdivision under summary review shall contain the following information:
1. the subdivider's name and mailing address;
  2. the subdivider's proposal for meeting the water quality requirements of these regulations;
  3. the subdivider's disclosure statement as it relates to water quality;
  4. the location and description of the source of water for the proposed subdivision;
  5. preliminary engineering plans for the private water supply system if the system will serve more than one (1) connection;
  6. the location of all known sources of contamination and the flood plain of all watercourses and surface bodies of water within the subdivision and within five hundred feet (500') of the proposed subdivision boundaries; and
  7. other relevant information as may be necessary for the determination of compliance with the water quality requirements of this appendix.

### **B.3 WATER QUALITY REQUIREMENTS**

Conformance with the water quality requirements of this section is required for preliminary plat approval.

- A. The level of a primary contaminant in water which is delivered to any user of a public or private water supply system shall not exceed the maximum contaminant level (MCL) allowed by NMED.
- B. For public or private water systems other than individual or shared wells, if the level for any of the secondary contaminants exceed levels recommended by NMED, the subdivider may either provide facilities to reduce the contaminants to levels below the maximum recommended levels as part of the water delivery system, or state in his disclosure statement the names of the contaminants, the levels of contamination found, the recommended maximum levels, and the purchaser's optional recommended treatment method that may reduce the contaminants to levels below the maximum recommended levels.
- C. For individual or shared wells if the level for any of the primary contaminant exceeds the maximum level allowed by NMED for public water systems or any secondary contaminant exceeds the maximum level recommended by NMED for public water systems, the subdivider shall state in his disclosure statement the names of the contaminants, the levels of contamination found, the maximum allowable or maximum recommended levels, and the purchasers optional recommended treatment method that may reduce the contaminants to levels below the maximum allowable or maximum recommended levels.
- D. A water supply source shall not be located at less than the setback distances allowed by NMED.
- E. Proposals for summary review plats shall contain sufficient information to allow the County to determine that the subdivider can comply with the requirements of subsections A, C, and D of this section.

#### **B.4 LIQUID WASTE DISPOSAL DOCUMENTATION**

For a subdivider to document conformance with the liquid waste disposal requirements of this appendix and the New Mexico Subdivision Act, a liquid waste disposal documentation package shall accompany the preliminary plat submittal.

**A. The liquid waste disposal documentation package shall:**

1. state the subdivider's name and mailing address;
2. state the date the package was completed;
3. state the subdivider's proposal for meeting the liquid waste disposal requirements of this appendix;
4. be accompanied by a copy of the subdivider's disclosure statement on liquid waste disposal;
5. be accompanied by the information required in Subsections B, C, or D of this section as applicable to the subdivider's liquid waste disposal proposal; and
6. be accompanied by other relevant information as may be necessary for determination of compliance with the liquid waste disposal requirements of this appendix.

**B. If the subdivider proposes a new community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package:**

1. an engineer's report and preliminary plans for the proposed community liquid waste system;
2. maps showing the location of all water supply sources and the flood plain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed liquid waste treatment and liquid waste disposal site, and
3. documentation of the filing of a "Notice of Intent to Discharge" with the New Mexico Environment Department in accordance with the Water Quality Control Commission Regulations.

**C. If the subdivider proposes a liquid waste system by connection to and extension of an existing community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package:**

1. a statement of availability of liquid waste service signed by an official of the existing liquid waste system; and
2. an engineer's report and preliminary plans for the proposed extension to the existing liquid waste system.

**D. If the subdivider proposes individual liquid waste systems, the following information shall be submitted as part of the liquid waste disposal documentation package:**

1. a soils report based on pertinent data from the NRCS soil survey and/or the results of a percolation test performed for each soil type within the subdivision,
2. if more than one soil type is present within the subdivision, a map showing the soil types within the subdivision and the location where the percolation tests were performed; a copy of the map for the area from the SCS soil survey with the subdivision boundaries clearly shown may be used for this purpose, and
3. preliminary plans for the individual liquid waste systems if a system will serve more than one (1) connection.

**E. Proposals for summary review plats shall contain sufficient information to allow the County to determine that the subdivider can comply with the requirements of this provision.**

- F. Documentation of approval for the discharge from a community liquid waste system from the New Mexico Environment Department will be required for final plat approval.

#### **B.5 LIQUID WASTE DISPOSAL REQUIREMENTS**

A. Community liquid waste systems.

1. A community liquid waste system shall be permitted, designed, and constructed, by the time of the first occupancy within the subdivision, to comply with the Water Quality Control Commission Regulations; and operated, maintained, and expanded as necessary to ensure that the system will comply with the Water Quality Control Commission Regulations.
2. The subdivider shall disclose and covenant that all lots within the subdivision must connect to the community liquid waste system at the time of occupancy.

B. Individual liquid waste systems.

1. Individual liquid waste systems shall be located, installed, operated, and maintained in accordance with NMED regulations.
2. Individual liquid waste systems shall not be installed where an existing community liquid waste system is available for use within the subdivision.

- C. The disclosure statement for the subdivision shall contain a description of the means of liquid waste disposal for the subdivision.

#### **B.6 SOLID WASTE DISPOSAL DOCUMENTATION**

A. The solid waste documentation package shall state that:

1. there are or are not private contract pick-up services available, and
2. the location of the nearest county operated convenience center and the distance in miles from the subdivision to the convenience center.

## **Appendix C to the Otero County Subdivision Regulations**

### **WATER USE AND CONSERVATION**

Adopted: June 24, 2010

## WATER USE AND CONSERVATION

### C.1 DEFINITIONS

<b>Community water system</b>	any existing or proposed water supply system which relies upon surface and/or ground water diversion other than wells permitted by the State Engineer under Section 72-12-1 NMSA, and which consists of a common storage and/or distribution facilities operated for the delivery of water to multiple service connections and that serves 25 or more parcels (lots).
<b>Geohydrologic report</b>	a report on subsurface water availability.
<b>Hydrologic report</b>	a report on surface water availability.
<b>Individual water system</b>	a domestic well authorized pursuant to a permit obtained under NMSA 78- 72-12-1, serving one to four parcels (lots).
<b>Potable water</b>	water that is safe and palatable for human consumption.
<b>Private water system</b>	a water supply system that serves fewer than 25 parcels (lots).
<b>Shared well</b>	An individual water system serving two to four parcels.
<b>Water availability assessment</b>	an evaluation to demonstrate that sufficient quantities of potable water are available to supply the maximum annual water requirements of the proposed subdivision for all indoor and outdoor domestic uses over a 40-year period. Components of the assessment shall include: (1) a description of the availability and sources of water to meet the subdivision's maximum annual water requirements over 40 years, (2) a description of the means of water conveyance and delivery within the subdivision.
<b>Water supply system</b>	a system to provide water for domestic use and for human consumption

### C.2 REQUIRED IMPROVEMENTS

- A. A community water system shall be required in any Type-one subdivision.
- B. A community water system shall be required in any Type-two subdivision containing any parcels less than 2.0 acres in size.
- C. A community water system shall be required in any Type-three-A subdivision containing any parcels less than 2.0 acres in size. Individual water systems for Type-three-B or Type-three-A subdivisions in which the parcel size is 2.0 acres or larger, may be approved if such systems meet the requirements of the Environment Department and the Office of the State Engineer.
- D. Individual water system for Type-four and Type-five subdivisions may be approved if such systems meet the requirements of the Environment Department and the State Engineer's Office.

### C.3 ESTIMATE OF ANNUAL WATER USAGE

- A. The maximum annual estimated water usage requirement for community water systems for both indoor and outdoor purposes, for each household in a residential subdivision is 1.0 acre-foot per year. The total annual water requirements for the subdivision utilizing individual domestic wells, in acre-feet per year are computed by multiplying the number of households by 1.0. Subdivisions relying on shared domestic well systems shall be limited to a maximum of three (3) acre-feet per year per domestic well. This can be further restricted or modified by state statutes and/or the Office of the State Engineer. Any such restrictions or modifications impacting the subdivision need to be detailed in the disclosure statement.
- B. The subdivider may, at his option, prepare a detailed water demand analysis using the step-by-step computational procedure presented in the relevant Office of the State Engineer Technical Bulletin to justify different water demand values than those presented in Section A above.

- C. A detailed water demand analysis shall be prepared for all nonresidential subdivisions and all water uses not directly related to residential uses within a mixed development subdivision. Annual water requirements shall be estimated using the relevant Office of the State Engineer Technical Bulletin or other acceptable methodology.

**C.4 COMMUNITY WATER SYSTEM REQUIREMENTS**

- A. If water will be supplied from a community water system, the subdivider shall submit a plat of the proposed subdivision, and preliminary plans for the water production, storage, and distribution facilities prepared by or under the supervision of a registered professional engineer. The site plans shall show in the topography, parcel boundaries, streets, wells, and water storage and distribution systems, including hydrants. The size or capacity of the water system components should also be indicated on the site plans. Preliminary well plans shall include casing diameter, total depth, screened interval, and proposed pump setting.
- B. Shared well systems, permitted under Section 72-12-1 N.M.S.A. may be allowed, subject to Subsection above, under the conditions that the maximum number of households served by one well shall not exceed four and the maximum annual water use for all households served by one shared well shall not exceed three (3) acre-feet or less if so restricted by State Statutes and the Office of the State Engineer. Shared wells need to be in the lot owners association name with the association clearly establishing each person's rights and entitlement and written procedures and responsibilities concerning the accounting, expenses, operation and maintenance and reporting of the shared well and distribution system. The Environment Dept requires maintenance and evaluation of water quality and the State Engineer requires reporting of volumes used.
- C. Covenants and land use restrictions shall be adopted strictly prohibiting the drilling or use of individual and/or shared domestic wells for any subdivision which requires or utilizes a community water system.

All subdivisions are required to be planned, developed, and constructed so as to provide for the conservation of water and minimization of water uses. Developers are encouraged to provide in their disclosure statements detailed water conservation requirements that will provide for the long-term conservation of water in Otero County.

**C.5 INDIVIDUAL WATER SYSTEM REQUIREMENTS**

- A. An individual water system serving no more than one connection shall be limited to 1.0 acre-foot per annum. An individual water system serving more than one connection shall be metered, shall not exceed 1.0 acre-foot per annum per household served. The maximum combined diversion for more than one household from a 72-12-1.1 domestic well shall not exceed 3.0 acre-feet per annum. A maximum of four connections to one well are permitted in Otero County.
- B. There shall be a well sharing and maintenance agreement for two to four connections to a well. This agreement must be filed with the County Clerk. The OSE requirement for a shared well is stipulated in Title 19, Chapter 27, Part 5 of the New Mexico Administrative Code (19.27.5 NMAC), 19.27.5.9.d.2 For a 72-12-1.1 Domestic well serving multiple households, the permit holder shall file documentation with the Office of the State Engineer listing the number of households being served by the well, the owner's contact information for each household being served, and a description of the legal lot of record for each household being served.
- C. If metered, quarterly reports shall be provided to the Office of the State Engineer.

**C.6 WATER AVAILABILITY ASSESSMENT** -- It is not the intent to require the subdivider to guarantee the life expectancy of the water supply. The intent of this section is to provide an assessment of the water availability for the proposed subdivision.

- A. For areas where adequate studies, i.e., the Otero County 40 year water plan, 1990-2030; The Tularosa Basin and Salt Basin Regional Water Plan 2000-2040; Water Conservation and Quantification of Water Demands, by Brian C. Wilson, NMSEO, 1996; and the Sacramento Mountain Hydrogeology Study, by New Mexico Bureau of Geology and Mineral Resources, July 2007, Progress Report, have been performed, these existing studies (and as may be amended) may be referenced and relied upon.
- B. A water availability assessment shall be submitted by the subdivider:
  - 1. as a condition of preliminary subdivision plat approval for all subdivisions with 25 or more lots, any one of which is under 5 acres, and any in which a community water system is proposed;

- C. The requirements of the water availability assessment are dependent on the source of water supply such that:
1. For subdivisions where the source of water will be a new ground water diversion community water system pursuant to Section 72-12-3 or 72-12-7 N.M.S.A. 1978 the subdivider shall demonstrate a 40-year supply and shall submit a geo-hydrologic report in accordance with Subsection D below.
  2. For subdivisions where the source of water will be a new ground water diversion utilizing individual domestic or shared wells to be approved pursuant to Section 72-12-1 N.M.S.A. 1978, the subdivider shall submit a water availability assessment in accordance with G. below.
  3. For subdivisions where the source of supply will be a new surface water diversion community system permitted pursuant to Section 72-5-1, 72-5-23, or 72-5-24 N.M.S.A. 1978, the subdivider shall submit a hydrologic report in accordance with Section E below.
  4. For subdivisions where the source of supply will be an existing community or municipal water supply system permitted pursuant to Sections 72-5-1, 72-5-23, 72-5-24, or 72-12-3, the subdivider shall submit information in accordance with Section F below.
- D. For new community water systems in subdivisions with 25 or more lots, any one of which is less than 5 acres, utilizing wells, the subdivider shall submit a water availability assessment which includes a geohydrologic report which meets the following requirements:
1. Geohydrologic reports by a qualified licensed NM professional engineer or geologist shall make a reasonable estimate that ground water sufficient to meet the maximum annual water requirement of the subdivision is physically available and can be practically recovered to sustain the development of a continuous period of forty (40) years. These analyses shall take into account the production of existing wells and shall demonstrate that the subdivision wells, as proposed or as designed, will be capable of producing the full annual demand for at least forty (40) years.
  2. The subdivider shall drill sufficient exploratory wells within the boundaries of the proposed subdivision to adequately characterize the aquifer, unless his licensed NM professional engineer or geologist can demonstrate that existing wells in the area are representative of general aquifer conditions within the subdivision. Where existing wells are not adequate to demonstrate aquifer conditions, aquifer parameters required to demonstrate the availability of water should be obtained from aquifer tests, performed on site, which are adequate for predicting long-term water availability. Alternately, tests can be conducted on nearby off-site wells if the licensed NM professional engineer or geologist can demonstrate that these wells are representative of general aquifer conditions within the subdivision.
  3. The assessment shall include a calculated schedule of effects on the proposed subdivision's production well(s) which may result from existing demands and from the increase of ground water withdrawals for the subdivision. Analyses shall be performed to assess whether future water level declines will be within the limits of allowable drawdown in the subdivision production wells as provided in the following paragraph (Subsection 4). Predicted draw-downs shall be calculated in a conservative manner (which estimates maximum drawdown).
  4. The determination of the lowest practical pumping water level in the proposed subdivision pumping wells by any of the following methods as appropriate, provided there shall be no presumption made as to additional available water below the bottom of the proposed production well, and further provided that the total available drawdown shall be reduced by a factor of twenty percent (20%) as a margin of safety to account for seasonal fluctuations, drought allowance, reduction of well efficiency over time, and peak production requirements:
    - a. By using the results of acceptable on-site aquifer pump tests. The lowest allowable pumping level may be the lowest water level reached during the test;
    - b. By setting the level at the top of the uppermost-screened interval;
    - c. In wells completed in fractured aquifers, the lowest practical pumping water level may be above the top of the fracture zone;

- d. In wells completed in alluvial aquifers, the lowest practical pumping water level may be defined by a maximum allowable drawdown equal to thirty percent (30%) of the initial water column.
  5. The geohydrologic report should present all hydrologic information pertinent to the study area including that available from past geohydrologic studies. The report shall include the signature, including date, of the consultant responsible for preparing the report. The report shall contain maps and cross-sections showing geology, depth to the water bearing formation, water level contours, and estimated thickness of saturation in the aquifer. Basic data for the immediate area of the subdivision must be current, with the date of collection noted and the location identified on a map. The report on the investigation should be in the format of a technical narrative; spreadsheets, tables, graphs, maps, and cross-sections shall be included.
- E. For new surface water diversion and community water systems using surface water, the subdivider shall submit a hydrologic report, which meets the following requirements:
1. The hydrologic report shall demonstrate that surface water sufficient to meet the maximum annual water requirement of the subdivision is physically available. These analyses shall include the following:
    - a. Narrative and analytical demonstration that the surface water will be physically available for the proposed use given short-term and long-term fluctuations (base-flow analysis) due to climatic cycles or other factors such as induced recharge due to ground water diversion, analyses of relevant historical runoff records, and projected water supply available for the subdivision requirements. Applicable legal or water rights constraints on water availability shall be considered.
    - b. If the analysis for the historical runoff record indicates possible shortages in the projected water supply available for the subdivision requirements the subdivider shall provide for either storage or a supplemental groundwater supply sufficient to meet the shortage.
    - c. If a supplemental ground water supply is proposed, the subdivider shall prepare a geo-hydrologic assessment in accordance with Section D
- F. For community water systems in which existing utility companies are proposed as the source of water supply, the subdivider shall submit a water supply plan, which meets the following requirements:
1. For all water utilities:
    - a. Name of the utility proposed as the source of supply. A letter of intent from the utility that they are ready, willing, and able to provide the maximum annual water requirements for the subdivision for at least forty (40) years. The letter must also state any requirements for the subdivider to provide water rights.
  2. For water utilities other than municipal owned water utilities:
    - a. documentation showing the quantity of water presently produced annually, quantity of water supply commitments to date, and proof of sufficient water rights to meet both existing commitments and the requirements of the proposed subdivision for a period no less than forty (40) years;
    - b. for New Mexico Public Regulations Commission (PRC) certified utilities, a copy of the most recent annual report submitted to the PRC.
    - c. plans for the existing water system to which the proposed system will tie into. The plans shall show diversion point locations, and water storage and distribution systems. The size or capacity of the water system components should also be indicated on the plans; and
    - d. any other information, including any or all of the requirements of Sections C or D, required by the Board of County Commissioners to make a determination that the utility has the capability to meet the water requirements of the proposed subdivision.

- G. For individual or private water systems in subdivisions with less than 25 lots, any of which is less than 5 acres, and for other water systems not specifically requiring a water availability assessment which requires a geohydrologic report, the subdivider shall submit a water availability assessment as follows:
1. a minimum of four well logs from the nearest existing wells completed in geologic conditions representative of the conditions within the proposed subdivision, with at least one well log from a well in the proposed subdivision or the owner's adjacent property.
  2. A statement of the maximum and minimum depths to water in the subdivision and the basis for these statements;
  3. A statement of the estimated yield of the nearest wells in gallons per minute based upon well logs from the nearest existing wells; and
  4. Any additional information which is required by the Board of County Commissioners that will enable it to determine whether or not the subdivider can fulfill the proposal contained in the disclosure statement.

#### C.7 WATER CONSERVATION MEASURES

The following water conservation measures are recommended for housing units in all subdivisions:

- A. All new construction shall conform to the requirements of the administrative Building and Planning Codes of the State of New Mexico.
- B. The use of xeric plant material and low water use landscaping techniques, applying the principles of xeriscaping, and use of recycled or "gray" water for irrigation thereof, is encouraged.
- C. The installation of rainwater catchment devices for outdoor landscaping watering purposes.
- D. No more than 800 square feet of irrigated grass or landscaping per parcel shall be allowed. This limitation shall not apply to gardens planted for the purpose of growing food for human or animal consumption.
- E. Water saving fixtures shall be installed in all new or replacement construction. Water saving fixtures shall include, but not be limited to low flush toilets, low flow fixtures, and insulation of hot water pipes. Toilets shall use no more than 1.6 gallons per flush; showerhead flows shall not exceed 2.5 gallons per minute; and faucet flow shall not exceed 2.5 gallons per minute. Evaporative coolers shall circulate bleed-off water.
- F. Forested property that is not maintained constitutes a fire hazard. The practice of establishing defensible space around structures, tree thinning, and reducing vegetation to benefit the watershed is recommended.

#### C.8 FIRE PROTECTION

- A. Wildfire Hazard Severity Analysis of all Subdivisions will be performed by the Otero County Office of Emergency Management, which will also coordinate with the nearest Fire Department to the subdivision to detail what if any fire fighting facilities are available, their capacity, distance and anticipated time of travel to the subdivision at a minimum. His report shall be summarized and included in the Disclosure Statements beginning with the first draft.
- B. Requirements for Provision of Fire Protection:
  1. For all subdivisions with more than one hundred (100) lots and with community water systems, the subdivider shall provide water for fire fighting and facilities for storage and distribution.
- C. Standards for Fire Protection

The subdivider's fire protection facilities shall conform to the guidelines provided by the Insurance Services Office (ISO), and to applicable County fire regulations and shall meet the following minimum requirements:

1. The required storage for fire protection shall equal 30,000 gallons. Amounts deliverable by tanker, as estimated by the local fire authority, may be included in the fire protection plan, but shall not be credited towards the ISO storage requirement.

2. The fire protection system shall be capable of delivering a minimum of five hundred (500) gallons per minute to the fire at a residual pressure of twenty (20) pounds per square inch or as required by ISO.
3. Fire hydrant spacing shall not exceed a distance of one thousand feet (1,000') measured along the roadway, and individual hydrants shall not be located more than five hundred feet (500') from each parcel.
4. Fire protection requirements may be waived or modified by the Board of County Commissioners subject to review of the subdivider's request by the fire authority having jurisdiction. The subdivider shall provide a letter to the Board of County Commissioners from the fire authority having jurisdiction with their comments on the waiver request.

D. Fire Protection Plan

1. A fire protection plan shall be a condition of preliminary plat approval for subdivisions with more than one hundred (100) lots and with community water systems.
2. For all subdivisions with fire protection, the subdivider shall submit a plat of the proposed subdivision, preliminary plans of the proposed water supply, storage and distribution systems, and calculations demonstrating that the proposed fire protection facilities will meet the requirements of this appendix, prepared by or under the supervision of a registered professional engineer.
3. If fire-fighting services are available, the subdivider shall provide a letter from the local fire authority having jurisdiction, which states:
  - a. rate in gallons per minute that water may be delivered to the fire by tanker service from the fire authority, if applicable; and
  - b. distance and anticipated time of travel to the fire

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## **Appendix D to the Otero County Subdivision Regulations**

### **TERRAIN MANAGEMENT**

Adopted: June 24, 2010

## TERRAIN MANAGEMENT

REC DATE: 7/2/10 REC TIME: 8:42:44 AM INSTR#: 201005727 CLK: *lee*  
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### D.1 DEFINITIONS

<b>cover density</b>	means the estimated percentage of canopy and basal cover for each vegetative type; canopy cover being the estimated percentage of trees and shrubs that would shade the ground at midday, and basal cover being the percentage of grasses, rocks, litter, and desert pavement in direct contact with the ground.
<b>drainage channel</b>	means any depression into which storm water flows along a defined course.
<b>erosion</b>	means soil movement due to wind or water.
<b>erosion control structure</b>	means any man made device for preventing or controlling erosion.
<b>floodplain</b>	any area which will be flooded by water from a 100-year frequency storm.
<b>floodway</b>	any area that will be flooded by water from a 25-year frequency storm.
<b>flood fringe</b>	any area that will be flooded by water from a 50-year frequency storm.
<b>local district</b>	means any soil and water conservation district within the county in which the proposed subdivision is located.
<b>sediment</b>	means any soil or other surface material transported by wind or surface water as a product of erosion.
<b>soil survey</b>	means a national cooperative soil survey conducted by the USDA, Natural Resources Conservation Service in cooperation with the state agricultural experiment station and other federal and state agencies, or any other survey containing information of comparable quality and detail following the national standards for an Order 2 survey approved by the local district.
<b>terrain management</b>	means the control of floods, drainage, and erosion and measures required for adapting proposed development to existing soil characteristics and topography.
<b>watercourse</b>	means any river, creek, spring, stream, arroyo, or any other like body having definite banks and/or evidencing the overland flow of water.

### D.2 TERRAIN MANAGEMENT PLAN

The County may approve a terrain management plan if it determines that:

- (1) the plan conforms with the requirements of the New Mexico Subdivision Act and the Otero County Subdivision Regulations;
- (2) the subdivider will fulfill the proposals for terrain management contained in the disclosure statement; and

Terrain management plans are required for all subdivisions and shall state the subdivider's name and mailing address, the name and mailing address of the person preparing the plan, the date the plan is submitted to the County, and be accompanied by a copy of the subdivider's disclosure statement and a schedule of compliance for meeting Otero County Subdivision Regulations. In addition, the terrain management plan shall contain:

#### A. Maps including the following information:

1. A vicinity map and a legible copy of an aerial photo map showing the relationship of the site to its general surroundings, and the location of all existing drainage channels, water and erosion control structures, watercourses and water bodies within three (3) miles of the subdivision on a U.S. Geological Survey map (7.5 minute topographical map), using 2000 feet to 1 inch.

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2. A subdivision map of not more than 100 feet to one (1) inch for five-acre parcels, not more than 200 feet to one (1) inch for over five-acre parcels, or not more than 500 feet to one (1) inch if over fifty (50) parcels. This information can be placed on the preliminary or summary review plat. Information must be legible. The map shall show:
  - a. the boundaries of the area to be subdivided;
  - b. existing contours at not more than ten foot (10') intervals, certified by a registered land surveyor or a professional engineer if a drainage channel, a floodway, a flood fringe, or flood plain is present in the subdivision;
  - c. an overlay showing the locations of all proposed parcels, roads, bridges, water and erosion control structures, and utility easements in relation to the existing contours;
  - d. an overlay showing the proposed finished contours of the subdivision after the subdivider's proposals have been implemented in relation to existing contours; and
  - e. the location of all buffer strips, drainage channels, watercourses, water bodies, floodways, flood fringes, and flood plains.

Where, in these regulations in regard to terrain management, the words "an overlay" are used, all such requirements may be satisfied with one overlay at the discretion of the subdivider.

3. A soil survey from the Natural Resources Conservation Service (NRCS) for the subdivision including an overlay of the various soil types drawn to the scale of the subdivision map and showing the location of each different soil type. Where such surveys and information is not available through NRCS and the Board of Commissioners deems such information necessary, a soil survey shall be provided by the subdivider.
4. A surface drainage description including:
  - a. storm drainage computations showing the estimated runoff for the subdivision before and following completion of development -- such computations shall be based on a fifty (50) year high water frequency;
  - b. runoff information on the areas contributing runoff to the subdivision to show existing drainage patterns and drainage channels that may affect the subdivision;
  - c. all design details necessary to explain the construction of all water control structures.
5. Type of utilities to be provided and a statement showing if the utilities are to be installed above ground or underground.
6. A general grading proposal setting forth the means for stabilizing all cut and fill areas, if any.
7. An estimated schedule of construction including:
  - a. the start and finish of all clearing and grading operations;
  - b. duration of exposure of disturbed areas;
  - c. stabilization date and method of control for disturbed areas;
  - d. installation date of storm drainage systems, if any;
  - e. installation date for all roads;
  - f. surfacing date of all roads;

- g. installation date of each utility to be provided; and
  - h. installation date of recreation structures and other community improvements.
8. The legal description of the subdivision including the range, township, section, and, to the nearest 40 acres, the section where the subdivision is located.
9. The number of parcels within the subdivision and the number of acres in each parcel.
- B. Subdivisions with more than fifty (50) parcels shall also include a surface drainage description with:
1. sufficient information on the areas contributing runoff to the subdivision to show existing drainage patterns and drainage courses that may affect the subdivision or be affected by the subdivision as shown on U.S. Geological Survey maps, using 2000 feet to one (1) inch; and
  2. all design details necessary to explain the construction of all necessary water control facilities.
- C. The soil survey provided by the subdivider shall show that all land to be developed must be composed of soils suitable for the uses specified below.
1. Subdivisions shall have an overlay of the natural features map showing the location of each soil type suitable for at least the following uses:
    - a. fill;
    - b. underground utilities;
    - c. road construction;
    - d. water control structures; and
    - e. erosion control structures.
  2. If the NRCS soil survey or subdivider's survey contains information that any soil or soils may have characteristics that would require special treatment for any uses listed above, the terrain management plan shall contain the subdivider's proposal to manage any such characteristics.
- D. All grading, filling, and clearing operations including road development shall be designed to:
1. preserve, match, or blend with the natural contours of the land;
  2. retain or replace trees and other native vegetation to stabilize hillsides, retain moisture, reduce erosion and runoff and preserve the natural scenic beauty;
  3. minimize scars from cuts and fills -- sharp angles at the top, toe, and sides of cuts are not permitted unless there is no other way to construct same; and
  4. minimize the deposits of sediment, organic or earthen materials into flood plains, drainage channels, watercourses and water bodies.

Whenever native ground cover is removed or disturbed and whenever fill material is placed on the site, the exposed surfaces shall be treated to the extent necessary to minimize dust arising from the exposed material. A handout is available at the Otero Soil and Water Conservation District office with information on revegetation of disturbed areas and construction sites.

All grading and filling operations shall proceed according to a work schedule and grading plan. The schedule shall be drawn up to limit to the shortest possible period the time soil is exposed and unprotected.

Vegetation and earth removed during clearing operations shall be disposed of in a reasonable manner.

Where mechanical stabilization or containment of the slopes by other than the use of native materials is employed the stabilization devices shall be at least partially screened by vegetation where practical as determined by the Board of Commissioners.

Organic material, such as vegetation or rubbish or any other material not subject to proper compaction or otherwise not conducive to its stability shall not be permitted in fills.

Borrowing for fill is prohibited unless a revegetation proposal for the borrow area is provided. Each layer of material for fill to be used at the construction site shall be compacted as required by the proposed construction.

Fills made by the subdivider which settle by more than ten percent (10%) of the height of the original fill within one (1) year of the date of contract completion are to be reconstructed at the subdivider's expense.

E. The subdivision of any area designated as an "area of special flood hazard" (that area shown as Zone A) on the Otero County, New Mexico, Flood Hazard Boundary Map (FHBM), dated August 22, 1978, and revisions thereto, shall conform to the applicable requirements of the Flood Damage Prevention Ordinance, Otero County Ordinance No. 78-1, as amended.

1. For areas not covered by the above flood hazard map, the subdivider shall plan for flood control to the fifty (50) year frequency storm.
2. No development may be undertaken within a floodway or flood plain, and all subdivision shall be planned and located:
  - a. to plan flood plain development in such a manner as to lessen the damaging effects of floods;
  - b. to protect individuals from buying land which is unsuited for the intended purpose because of flood hazards; and
  - c. so that the area of a floodway shall not be diminished as a result of a subdivision.
3. In approving a subdivider's plat, the Board of Commissioners may, as a condition of approval, require fills, dikes, levies, or other approved diversion measures to prevent the subdivision from flooding.

F. The subdivider shall plan for storm drainage.

1. All subdivisions shall be planned, constructed, and maintained to:
  - a. protect and preserve existing natural drainage channels except where erosion and water control measures are approved by the Board of Commissioners;
  - b. protect structures and other works from flood hazards;
  - c. provide a system by which water within the subdivision will be removed without causing damage or harm to the natural environment, or to property or persons within the subdivisions or in other areas;
  - d. assure that waters drained from the subdivision do not contain pollutants and sedimentary materials of any greater quantity than would occur without the subdivision; and
  - e. assure that waters are drained from the subdivision in a manner that they would without the subdivision being present.
2. Easements shall be provided in subdivision plats as necessary to carry floodwaters.

3. No subdivider shall divert flood water in such a manner as to increase flow on downstream property that shall be injurious to the property.

To lessen the damage due to floodwater, all house floor slabs shall be constructed to be not less than two (2) feet above the drainage area.

4. All storm drainage systems shall be constructed to standard engineering practices.
5. Buffer strips shall be designated on the face of the plat in a manner suitable to be clearly shown.

- G. Subdividers are not required to provide perimeter fences. All disclosure statements shall contain the following statement: UNDER NEW MEXICO LAW LAND OWNERS ARE RESPONSIBLE TO PROVIDE THEIR OWN FENCES IF THEY WANT TO KEEP LIVESTOCK OUT.

### **D.3 TERRAIN MANAGEMENT PLANS FOR SUMMARY REVIEW**

Terrain management plans for summary review subdivisions shall contain:

- A. Maps which provide the following information:

1. A vicinity map showing the relationship of the site to its general surroundings, and the location of all drainage channels, water and erosion control structures, water courses, and water bodies within five hundred feet (500') of the subdivision as shown on U.S. Geological Survey maps;
2. A subdivision map drawn to a scale of not more than two hundred feet (200') to one inch (1") showing in simple sketch form the location of all proposed parcels, roads, bridges, and water and erosion control structures:
  - a. the boundaries of the area to be subdivided;
  - b. the location of all cuts and fills; and
  - c. the location of all buffer strips, drainage channels, water courses, water bodies, floodways, flood fringes, and flood plains;
3. A surface drainage description including:
  - a. sufficient information on the areas contributing runoff to the subdivision to show existing drainage patterns and drainage courses that may affect the subdivision or be affected by the subdivision as shown by existing U.S. Geological Survey maps, and
  - b. all appropriate design details necessary to clearly explain the construction of all necessary water control facilities;
4. A general road development proposal setting forth the schedule for and extent of road development;
5. All lands to be developed must be composed of soils suitable for the proposed uses of the subdivision. A soil survey or soils report from the NRCS for the location of the proposed subdivision shall be included with the proposal documentation.
6. A description of the subdivider's plan for storm drainage which will meet at least the following criterion:
  - a. protect and preserve existing natural drainage channels except where erosion and water control measures are approved by the County;
  - b. protect structures and other works from flood hazards;

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- c. provide a system by which water within the subdivision will be removed without causing damage or harm to the natural environment, or to property or persons within the subdivision or in adjacent or downstream areas;
- d. assure that waters drained from the subdivision do not contain pollutants and sedimentary materials of any greater quantity than would occur in the absence of the subdivision; and
- e. assure that waters are drained from the subdivision in such a manner that they will not cause erosion outside of the subdivision to any greater extent than would occur in the absence of the subdivision.

## **Appendix E to the Otero County Subdivision Regulations**

### **ROADS, ALLEYS, EASEMENTS, AND OTHER RIGHTS-OF-WAY**

Adopted: June 24, 2010

## E.1 GENERAL

These regulations are to be used in road design and construction in Otero County. Where the word "minimum" is used, it implies the lowest acceptable limit in design and construction.

The arrangement, character, extent, width, grade, and location of all roads shall conform to the topographical conditions, to public convenience and safety, and to their relation to the proposed use of the land to be served by such roads.

All roads are required to be constructed with a minimum dedicated fifty foot (50') wide easement. When subdivisions are accessed from a road or highway that is chip sealed or asphalt paved, the main arterial entering the subdivision shall be at minimum chip sealed, within twenty-four months after the final approval and recording of the subdivision, or in a timely manner based on a cooperative agreement with the Otero County Road Department, based on the availability to perform the work. When the subdivision is accessed from any road or highway that is not chip sealed, or asphalt paved, the subdivision roads are required to be gravel roads at a minimum and constructed to county specifications.

All public roads will be dedicated as such on the subdivision preliminary and final plats, and shall be constructed to the specifications within these regulations with full consideration for terrain limitations and flood easements and control measures. When the subdivider proposes private roads within a subdivision, they are required to be built to county standards and the designation of such roads as "private" shall be noted on the plats and in the disclosure statement. The disclosure statement shall also contain a required road maintenance agreement for signature by the individual lot purchasers in the subdivision. In addition, the plat and disclosure statement shall contain the following statement: "Should the lot owners petition the County to take over maintenance of the roads within the subdivision, it will be the lot owners' responsibility to bring the roads up to the then existing current County road standards."

The acceptance of easements and/or dedicated road rights-of-way does not bind the County in any way to acceptance of the roadway upon such easements or rights-of-way. The County's acceptance of roads for maintenance shall follow the procedure outlined in these regulations.

## E.2 DEFINITIONS

<b>alley</b>	A minor right-of-way to provide supplementary access to the rear or side of lots or tracts but not for primary access to lots or tracts or off-road parking facilities.
<b>cul-de-sac</b>	A local road with an outlet at one end and a turn-around at the other.
<b>driveway</b>	Access to private property not open to the public.
<b>easement</b>	A grant by a property owner (grantor), to a certain person or persons, the general public, a corporation, or a specific utility or all utilities (grantees), of the right to use land for a specific purpose, such as access or utility extensions.
<b>frontage road</b>	A local road parallel and adjacent to another road with limited access points, normally a highway or a freeway.
<b>half road</b>	A public right-of-way which is half the required.
<b>local road</b>	A road which is parallel to or branching from a collector or arterial road to provide access to abutting properties and protection from through traffic.
<b>private road</b>	A road which is privately owned, is not open to the public, is limited to specific persons, and is not maintained by the County.
<b>public road</b>	A local, arterial, or collector road that is owned outright by a government entity or by legal easement, and open to the public and may or may not be maintained by the County based on use, need, and funds available.
<b>public right-of-way</b>	The total area of land deeded, reserved by plat, dedicated or otherwise provided for a highway, road, alley, and other public access to lots, or easements to the Federal Government, State of New Mexico or its political subdivisions, for use by the public.

- rectilinear street patterns** A development grid laid out with unbroken street patterns in straight lines irrespective of topography representing minimal government expenditure and maximum potential for land speculation.
- road** An open way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, avenue, boulevard, lane, place, or otherwise designated, a public way dedicated, reserved by plat or otherwise provided which affords the principal means of access to abutting property units.
- trail** An easement to cross property for recreational purposes or to reach recreational sites.
- variance** sub-divider's request to be excused from specific requirements in the subdivision regulations.
- waiver of protest agreement** An agreement passing with the property to future owners which obligates them to pay the costs of any requirement involved in a requested and approved variance, if the County, for any reason, at any time in the future, requires said requirements to be constructed.

## Table A

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<b>a. PRIVATE ROAD</b>	<b>b. PRIVATE EASEMENT</b>	<b>c. MAINTENANCE</b>
Privately owned by individual or group.	Only for authorized persons and use only as specified in easement, i.e.: road only or utility and road, or one utility only.	Can be left un-maintained; can be maintained by owner; or can be maintained by owner and/or users. County maintenance PROHIBITED.

- a. Owner pays taxes on the land under the easement.
- b. Owner can grant others compatible usage for same or different purpose.
- c. Entitled persons can sell or assign to public or other individuals unless prohibited when granted.

<b>a. PRIVATE ROAD</b>	<b>b. PUBLIC EASEMENT</b>	<b>c. MAINTENANCE</b>
Privately owned by individual or group.	Public use only for specified purpose or purposes.	Can be left un-maintained; can be maintained by grantor and/or users. County maintenance PROHIBITED.

- a. Owner pays taxes on the land under the easement.
- b. County can use easement, sell easement, assign it to others, to individuals, abandon it, or return it to grantor unless otherwise specified when granted.
- c. When given by an individual to the public or the county, it has to be accepted by the Board of County Commissioners to be binding.

<b>a. COUNTY ROAD</b>	<b>b. PUBLIC ROAD</b>	<b>c. MAINTENANCE</b>
Owned by County; received by deed or dedicated on subdivision plat.	For vehicle, flood control ditches, and utilities for public service.	Can be left un-maintained; can be maintained by grantor and/or users; or maintained by County if funds are available and Board of County Commissioners authorize maintenance.

- a. County owns the land and no taxes are collected.
- b. It is formally accepted by county when subdivision is approved or a legal document is accepted.
- c. County can allow public use, maintain and develop it, sell it, assign it to individuals, to groups, abandon it, return it to grantor, or give it to contiguous land owners, unless otherwise specified.

**EASEMENT BY PRESCRIPTION** is a method of obtaining legal easement by court action after open, hostile, and continuous trespass for a ten-year period. The court evaluates, considers, and if it approves and grants the easement or right-of-way, it may award the owner equitable compensation, after considering the appraised value and for the impact on the value of the property.

Note: Some roads, utility easements, and trails are utilized by the public and maintained by utility companies and even maintained by the County Road Department without legal documentation. Historically, documentation of earlier agreements has been lost and/or failure to properly document original agreements has occurred. Any subdivider who owns properties so involved in a subdivision, and/or contiguous to those involved in the subdivision, will be asked to legally document such easements as a part of their act of subdividing.

**EMINENT DOMAIN** is the method that a government entity can use to condemn and purchase property for public right-of-way or easements for trails, roads, ditches, utilities, or other purposes. This procedure has provisions for compensating the owner after consideration of appraised value and for the impact on the value of the property.

### **E.3 ROAD LAYOUT**

The proposed road layout shall be made according to sound land planning practice for the type of development proposed, shall be coordinated with the road development proposed, and shall be coordinated with the road system of the surrounding areas. All roads must provide for the continuation of appropriate projections of principal roads in surrounding areas and any future roads identified in the Otero County Comprehensive Plan.

Any recorded easement upon the property being subdivided may be vacated, abandoned or altered.

### **E.4 ROAD DESIGN**

Road grades shall conform to good engineering standards. All proposed roads shall be designed under the supervision of a New Mexico registered engineer or land surveyor, as allowed by law. The design of the structural section of the road shall follow methodologies recommended by AASHTO or other such commonly recognized authority in the field. Factors for consideration shall include but not be limited to soil data, use reflective of ultimate development and projected car and truck activity, maximum and minimum grades, climatic conditions, drainage, environmental concerns, and the incorporation of materials that will enhance the logistics and economics associated with long term maintenance operations.

When requested by a County Representative, the subdivider shall furnish design calculations proving adequacy. Referencing minimal criteria without appropriate engineering interpretations shall not be acceptable. When the Soil Conservation Service Survey exists, it will be appropriate to use it. Otherwise, a current Geotechnical Investigation will be required.

### **E.5 ROAD RIGHT-OF-WAY WIDTH**

Minimum road right-of-way widths for public and private roads shall be fifty feet (50') for two-lane roads, and seventy feet (70') for four-lane roads.

### **E.6 CUL-DE-SACS**

Cul-de-sacs in excess of fifteen hundred feet (1,500') long shall have a turn around at the closed end plus intermediary turnarounds at regular intervals of not greater than fifteen hundred feet (1,500') from center to center of successive turnarounds. They shall have a minimum right-of-way radius of fifty feet (50') and a minimum surfaced-area radius of forty feet (40').

### **E.7 HALF ROADS**

The dedication of half roads at the perimeter of a new subdivision is prohibited.

If a half road dedication is needed from adjacent property owners to merge with a half road in the subdivision to provide the full road width, the subdivider shall be responsible to make all arrangements to acquire the land dedication and any other contribution or cooperation from the adjacent property owners to provide the total width, to plat and build the total road with

or without cash contribution from the adjacent property owners depending on his separate and personal negotiations with the adjacent property owners.

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#### **E.8 ROAD NAMES AND ADDRESSES**

Road names shall be shown on all preliminary and final subdivision plats. No road name shall be used which will duplicate or be confused with the names of existing roads within Otero County. Road names shall be subject to the approval of the Otero County Geographic System Office and the Board of County Commissioners.

- A. Where subdivisions abut, and an existing road continues into the adjacent subdivision, the pre-existing road names will be used to the extent possible so that road names will continue until the logical terminus of the road.
- B. Prior to submitting the preliminary plat, the subdivider shall contact the Geographic Systems Office to confirm that road names do not duplicate existing road names. The Geographic Systems Office will reserve road names for the subdivision upon request.
- C. Where parcel sizes are such that the Geographic Systems Office can assign address numbers during the subdivision preliminary approval process, the assigned numbers shall be shown on the final plat.

#### **E.9 SUBDIVISIONS ADJACENT TO HIGHWAYS**

Where a proposed residential subdivision contains lots abutting a major highway, it shall be planned so as to have a minimum number of intersections with the highway. The sight distance at any intersection must provide for adequate stopping distance. Where the subdivision contains, or is adjacent to a state or federal highway, the subdivider must satisfy the New Mexico State Highway Department as to the permit required to connect.

#### **E.10 SCENIC CORRIDORS**

Along county, state, or federal designated scenic corridors, a "greenbelt" or "scenic greenbelt", of a width deemed appropriate by the Planning Commission or the Board of County Commissioners shall be reserved from development.

#### **E.11 SUBDIVISIONS ADJACENT TO PUBLIC LANDS**

Any subdivision with a common boundary with a National Forest, U.S. Government, or New Mexico State owned land shall provide an easement for access to contiguous lands provided there is not a pre-existing right-of-way to such lands in existence within one-half (1/2) mile of the boundaries of the proposed subdivision, if the Federal or State government requests such access in writing.

#### **E.12 LOTS**

Shapes and location of lots shall be governed by topographic conditions, use, and surrounding or adjacent areas. Every lot shall have access to a public thoroughfare. Block corners, points of curvature, and points of tangent shall be permanently marked with clearly visible metal stakes, T-posts, or similar markers with an approximate height of five (5) feet.

Double frontage lots should be avoided. Backing up a lot to an existing high traffic road is not considered as double frontage. Side lot lines should be substantially at right angles or a radial line to roads.

Caution should be exercised in the layout of lots adjacent to a highway with a high traffic count and adjacent to a railroad because of the noise level and night lights. Normally, these lots should be deep.

When a commercial or industrial area is part of or all of a subdivision, consideration must be given to provide off-street parking when sizing the lots. Where land is subdivided into extra large tracts where the potential for future re-subdivision exists, such tract shall be arranged so as to allow for the provision of future roads and a logical further re-subdivision pattern.

#### **E.13 UTILITY AND DRAINAGE EASEMENTS**

Where utility easements are located at rear or side of lot lines, they shall have a minimum width of fifteen (15) feet. These easements must be approved by the local utility companies.

On any subdivision with a common boundary to a national forest, the utility easements are to be located entirely within the subdivision. When a subdivision is traversed by a watercourse, drainage way, channel, or storm drainage, the plat must provide a right-of-way for flood control measures conforming with the lines and floodway of such watercourse.

## E.14 DESIGN STANDARDS

### A. Geometric Standards

#### 1. Horizontal Alignment

(NOTE: Horizontal alignment is the position of the road in a horizontal plane fixed by the road centerline.)

Sharp horizontal curves shall not be introduced at or near the top of pronounced vertical curves, nor at the end of long tangents.

##### a. Minimum Radius

The minimum centerline radius for any road shall be fifty feet (50').

##### b. Grade

No road or alley shall exceed nine percent (9%) in grade.

Grades approaching intersections shall not exceed five (5) percent for a distance of not less than one hundred (100) feet each way from the intersection.

#### 2. Super Elevation

The maximum rate of Super elevation for roads with design speed less than 30 mph shall not exceed 0.04 feet per foot. For design-speeds of 30 mph or greater, the maximum rate of Super elevation shall not exceed 0.08 ft/ft.

(NOTE: Super elevation is the tilting upward of the outside of a curve to counteract the centrifugal force which tends to cause a vehicle to overturn or slide outward from the center of a curve.)

#### 3. Intersections

##### a. Intersection Sight Distance - Unpaved Roads

The minimum sight distance provided for a car entering an intersection from a side road shall be 300 feet. Sight distance shall be measured from a location ten (10) feet back from the edge of the through roadway with the entering driver's eye at a height of 3.5 feet and the height of the oncoming vehicle at a height of 4.25 feet. Constructed Improvements are required to meet these setback requirements.

##### b. Intersection Sight Distance - Paved Roads

The minimum sight distance provided shall be determined according to criteria contained in AASHTO - A Policy On Geometric Design of Highways and Streets, Current Edition. This requirement shall apply if (1) the through roadway is paved, or (2) both roadways are paved.

Road intersections shall be as nearly perpendicular as possible, and shall not be more than 15E from perpendicular. Road grades shall not exceed six percent (6%) for minimum distance of fifty feet (50') from any road intersection.

At intersections, the minimum radius at the edge of the road surface shall be twenty feet (20').

### B. Geometric Cross Section

#### 1. Surface Width

The minimum surface width of two-lane arterial roads serving more than 500 parcels of land, exclusive of shoulders, shall be thirty feet (30'). Four-lane arterial roads shall have a surface width of sixty feet (60').

1. The minimum surface width of all other roads, exclusive of shoulders, shall be twenty-four feet (24') for public roads and twenty feet (20') minimum for private roads.

2. **Crown Slopes**

The standard crown slope for all types of road surface shall be two percent (2%).

3. **Shoulders**

Side slopes shall not be steeper than 3:1. Shoulder width on paved and chip-sealed roads shall not be less than one (1) foot.

4. **Side Ditches**

Side ditches shall be used in all cut sections except as noted herein. The slope from the edge of the shoulder to the bottom of the ditch shall correspond to the shoulder slope, and shall not be steeper than 3:1. Minimum depth shall be one foot (1'), top-of-sub-grade to bottom-of-ditch.

Where the cross slope permits, side ditches may be omitted if (1) the road surface is out-sloped at two percent (2%) to three percent (3%) and (2) proper road drainage can be accomplished without a side ditch.

5. **Side Slope**

- a. **Cut Slope**

Cut slopes shall not be steeper than the slope required to maintain stability of the cut bank.

- b. **Fill Slopes**

Fill slopes shall not be steeper than 1-1/2:1.

- c. **Slope Rounding**

The top of all cut slopes shall be rounded, except in solid rock. Cut slopes at the ends of all cuts shall be shaped to blend with the natural ground slope. This does not apply to rock cuts.

6. **Fill Widening**

Where fill height at the shoulder is less than three feet (3'), no widening is required. Where a fill height exceeds three feet (3'), the fill shall be widened one foot (1').

**C. Roadbed Structure**

1. **Aggregate - Surface Roads**

The minimum acceptable aggregate - surfaced road shall consist of a base course and aggregate surface course, as defined in these standards, constructed over a suitable sub-grade.

2. **Paved Roads**

The minimum acceptable paved road shall consist of a base course and bituminous, surface, as defined in these standards, constructed over a suitable sub-grade.

3. **Soil Borings**

Soil borings may be required for aggregate surfaced roads. The design shall account for all conditions encountered in the sub-grade materials. This includes provisions for the removal of unsuitable materials for the reinforcement of the sub-grade, where these measures are necessary.

Soil borings are required for the construction of paved roads. Soil tests are required only to the extent necessary to identify the major types of sub-grade materials and to identify the probable structural qualities of these materials.

The AASHTO Classification of Highway Sub-grade Materials shall be used for all soil classifications.

4. Aggregate Base Course and Aggregate Surface Course

The minimum thickness of pit run or crushed aggregate and base course material shall be eight inches for public roads and five inches minimum for private roads. The pit run or Crushed Aggregate for the base course shall be a minimum thickness of 6 inches compacted for public roads and a minimum thickness of 3 inches compacted for private roads, capped by a minimum of two inch compacted base course

Pit-run or crushed aggregate base course and surface course conforming to the Materials Specifications in Section E.15 may be used on aggregate surfaced roads.

Crushed aggregate base course shall be used on paved roads.

5. Bituminous Surface

Pavement is optional for subdivisions of fewer than 100 lots. However, when used, the minimum bituminous surface treatment shall be a bituminous prime coat followed by a two-course application of bituminous material and cover aggregate. Materials shall conform to the Materials Specifications. If paving is to be used the sub-grade shall consist entirely of base course in which event the material shall not be less than 6" in compacted thickness.

6. Compaction

a. Aggregate Surfaced Roads - Compaction of sub-grade, base, and surface course materials may be accomplished by any method that will result in a firm, unyielding course. Materials shall be dried or moistened to obtain moisture content suitable for compacting the course to a firm, unyielding surface.

b. Paved Roads - Sub-grade materials on a bituminous surfaced road shall be compacted to ninety-five percent (95%) of the maximum density determined in accordance with AASHTO T-180, Method D. Field density tests shall be made during the work in accordance with AASHTO tests for the in-place density of materials.

**D. Drainage**

1. Hydrology

a. In all cases, road bridges and culverts shall be designed for a 1% chance storm overtopping and so that a 1% chance storm shall not cause flooding on adjacent properties by backing up water that can escape from the area up stream from the bridge or culverts in a 1% chance storm event. Construction on the up stream side shall have concrete reinforcement designed to prevent any volume of retained flood water washing out the structure and causing greater damage down stream.

b. Developers must ensure that no additional flows from new developments are allowed onto the highway right-of-way. Drainage flows from the subdivision shall not be increased in velocity or volumes greater than the level that existed in the predevelopment flow.

Structures other than bridges shall be designed as follows:

- i. Where the estimated runoff from a 50-year frequency storm is less than 1000 cfs, the structure shall be designed for a 25-year frequency storm. Headwater depth may be considered in the design.
- ii. Where the estimated runoff from a 50-year frequency storm exceeds 1000 cfs or greater, the structure shall be designed for a minimum 50-year frequency storm. Headwater depth may be considered in the design.
- iii. The hydrologic design shall be based on methods contained in USDA-SCS Engineering Field Manual, Peak Rates of Discharge for Small Watersheds, latest edition. A drainage report, with calculations, shall be submitted with the plans required under Section E.22, Plans. The drainage report shall include USGS topographic map showing the contributory drainage area(s).

## 2. Culverts

### a. Material

- i. Culverts shall be corrugated metal, corrugated polyethylene or reinforced concrete, conforming to the Materials Specifications in Section E.15. Steel culverts shall be galvanized.
- ii. Gauge - Culvert gauge shall be determined from the manufacturer's recommendation for the height of cover and an water design loading. The minimum for corrugated steel pipe shall be 16 gauge.

### b. Installation

- i. General - Installation of culverts shall be in accordance with these specifications. The minimum culvert size, including ditch relief, shall be eighteen inches (18") inside diameter.
- ii. Minimum Cover - The minimum cover over a culvert shall be six inches (6"), top of pipe to top of road surface.
- iii. Gradient - The gradient of ditch relief culverts shall be greater than the gradient of the approaching ditch.
- iv. Camber - Culverts shall be installed with a camber of not less than 0.1 foot in five feet (5') of length.
- v. Outlet - All culverts shall outlet on natural ground. Where necessary to prevent erosion below a culvert outlet, slope protection shall be employed. Culverts shall extend at least one foot (1') beyond the toe of the fill.
- vi. Multiple Culvert Installation - Where multiple culverts are used, they shall be separated by a minimum horizontal distance of eighteen inches (18"), outside of pipe to outside of pipe. Unless installed in an existing drainage, all ditch relief culverts shall be skewed a minimum of 15 degrees ahead (downhill) of the inlet end of the culvert, measured from a perpendicular to the center line of the road.

## 3. Side Ditches

All Side Ditches shall be positively drained by use of ditch relief culverts or by ending the ditch at fill sections. At the end of a cut section, the side ditch shall be turned away from the fill slope to prevent erosion of the fill slope.

Ditch relief culverts shall be spaced to prevent excessive ditch erosion.

## 4. Underdrain

Underdrains shall be provided where necessary to remove ground water from the road. Pipe shall conform to the Materials Specifications

5. Dips

The use of dips requires prior written approval of the Board of County Commissioners. Where such use is approved, dips shall be constructed of reinforced concrete. Cut-off walls and slope protection shall be provided. Concrete roadway pavement shall extend a minimum of one foot (1') above anticipated high water. Cut-off walls shall extend a minimum of two feet (2') below the stream bed. Where necessary to prevent channel erosion, an apron shall be provided on the downstream side of the dip.

E. Driveways

Wherever driveways cross side ditches, the property owner shall be responsible for installing culverts conforming to these standards when necessary. The Road Department shall be contacted prior to the installation of any culvert for the purpose of providing design specifications, depth of culvert and size at the particular location.

Driveways shall be constructed in such a manner that drainage there from will not erode or deposit material on any road surface.

F. Structures.

Bridges, cattle guards, and box culverts shall be designed to withstand water loadings in accordance with the New Mexico State Highway Department design standards. All cattle guards shall be so designed and constructed so as to minimize surface drainage into them; they shall also extend three feet (3') on each side beyond the traveling surface and they shall be seven feet (7') across and at least thirty-six inches (36") in depth. Sufficient drainage shall be provided for in order to prohibit the filling of the cattle guard with water and debris.

**E.15 MATERIAL SPECIFICATIONS**

**A. Corrugated Metal Culvert Pipe**

Materials for corrugated culvert pipe, pipe arches, and connecting bands, including base metal, rivets and spelter coating shall be as specified in AASHTO M-36.

**B. Structural Plate Culvert Pipe, Pipe Arches, and Arches**

Materials for structural plate culvert pipe, pipe-arches, and arches shall be as specified in AASHTO M-167.

**C. Corrugated Polyethylene Culvert**

Materials for corrugated polyethylene culverts shall be as specified in AASHTO M-252.

**D. Reinforced Concrete Culvert**

Materials for reinforced concrete culverts shall be as specified in AASHTO M-170 or M-207.

**E. Under drain**

Under drain pipe of the various materials shown shall be as required by the corresponding specifications;

Perforated Corrugated Galvanized Metal Pipe	AASHTO M-36
Bituminous Coated Corrugated Metal Pipe	AASHTO M-19
Corrugated Polyethylene Tubing	AASHTO M-252

Filler material shall consist of land, durable, clean sand, gravel, or crushed rock. Gradation shall be as required by the individual installation.

**F. Pit Run Aggregate Base and Surface Course**

Pit run aggregate shall consist of gravel, talus rock, broken rock, caliche, or other suitable material that when compacted will produce a stable base or surface course. Base and surface course materials shall be reasonably free from vegetative matter or other objectionable materials.

The maximum dimension of any particle in a base course shall not exceed 2/3 of the compacted thickness of the layer in which it is placed. The maximum dimension of any particle in a surface course shall be 1-1/2 ".

Material to be used as a surface course shall be such that twenty to fifty percent (20%-50%) by weight will pass the No. 4 screen. If additional filler material, passing a No. 4 screen, is necessary it shall be uniformly blended into the surface course. A maximum of fifteen percent (15%) of surface course material shall pass the No. 200 sieve.

The aggregate may be broken down on the road by whatever means will accomplish the required reduction.

Aggregate shall be dried or moistened to obtain a moisture content suitable for compaction to a firm, unyielding base or surface course.

**G. Crushed Aggregate Base and Surface Course**

The materials used in the base or surface courses shall conform to one of the following gradations. Gradations A through C may be used for base course. Gradations C through E may be used for surface course and/or for combined base and surface course. The base course shall be at least one (1) gradation larger than the surface course.

**Grading requirements for crushed aggregate base course or surface courses  
 Percentage by weight Passing Square Mesh Sieves, AASHTO T-27**

3 inch	0	100				
2 inch	0	---	100			
1-1/2 inch	15	74	87	100*		
1 inch	16	62	73	84	100*	
3/4 inch	16	54	64	73	88	100*
3/8 inch	16	40	47	53	64	73
No. 4	16	29	34	39	47	54
No. 8	15	21	25	28	34	39
No. 30	10	12	14	15	18	21
No. 40	8	10	11	13	15	13
No. 200	6	4	5	6	7	8

\* Tolerances shall not apply to 100 percent passing requirements.

The percentage passing No. 200 sieve shall not be more than 2/3 percentages passing No. 40 sieve.

Aggregate shall conform to AASHTO M-147, except for surface course aggregate where the liquid limit shall not exceed 35 and the plasticity index shall not be less than 6 nor more than 14.

**H. Bituminous Prime Coat**

Materials may cutback asphalt, asphalt cement, or emulsified asphalt. Application shall be in accordance with manufacturer's recommendations.

**I. Bituminous Surface Treatment**

Cover aggregate shall be screening of crushed stone or gravel free from dirt, clay balls, vegetable matter, and other deleterious substances. The material shall consist of clean, durable particles of aggregate meeting the following grading requirements.

**Percentages by weight passing square mesh sieves  
 as determined by AASHTO-T-11 and T-27.**

3/4 inch	100	—	—
2 inch	90-100	100	—
3/8 inch	45-75	90-100	100
No. 4	0-15	10-30	75-100
No. 10	0-5	0-8	0-10
No. 200	0-2	0-2	0-2

The aggregate shall further conform the following requirements as determined by the listed AASHTO designation:

Unit Weight-Loose	AASHTO T-19	Not less than 80 lbs. pcf
Percent of Wear	AASHTO-96	Not more than 40
Stripping Test	AASHTO T-182	Minimum 95% coated

Not less than 70 percent of the material retained on the No. 4 sieve shall be particles having at least one fractured face.

Blotter material shall be clean on other fine granular material.

The design and application of the surface treatment shall be in accordance with sound engineering practices.

The minimum thickness of the finished surface treatment shall not be less than one inch (1").

**J. Tests**

1. **Material Sources** - Sufficient laboratory tests shall be made to determine whether or not the proposed material source is suitable to produce the needed volume of acceptable materials, according to these specifications. As a minimum, gradation and plasticity index shall be shown. Test results shall be submitted with the plans.
2. **Density, compaction and alignment** - Test results shall be submitted to the County authority for inclusion in the County Road Department's file along with verification that the roads have been built per County Specifications, in the location and position depicted in the Final Plat, in a "Certificate of Completion" affidavit from the designated County Official for recording with the Final Plat and Disclosure Statement.
3. **Cost** - The Cost of all necessary materials testing, verification and certification will be paid by the subdivider and/or party constructing the road or street.

**E.16 PLANS**

Plans shall be prepared under the supervision of a registered NM Licensed Professional Engineer or land surveyor and shall bear his or her seal. These plans shall be included on the preliminary plat. The plans shall show the following information for all roads:

1. Horizontal alignment at a scale of 1"=50', 100', or 200';
2. Where road gradients exceed 2%, center line profile, showing existing ground and proposed grade lines with percentage grade;
3. Proposed drainage structures, on plan and profile;

4. Property boundaries;
5. Center line stationing, with every fifth station numbered;
6. Station number of all PCs and Pts;
7. Tangent bearings;
8. Curve data;
9. North arrow and scale;
10. Bench mark data;
11. Proposed typical section, showing thickness and type of base and surface courses proposed and gradations of base and surface courses and types of asphalt, if any; and,
12. Where gradients exceed 2%, proposed grade line of any proposed alleys

Detailed plans shall be submitted for any road dip, bridge, cattle guard, or box culvert.

#### **E.17 ROAD CONSTRUCTION**

The subdivider shall construct the roads so intended according to the design standards, specifications, and relative stipulations of these Regulations and the approved Road Construction Plan. At least seven (7) days prior to any road construction activities, the subdivider shall submit to the County a written schedule for the accomplishment of the proposed work. The subdivider shall provide at least two (2) days notice of any changes in the schedule. Dedication of any road right-of-way or easement in no way relieves the subdivider of any duties or obligations to construct proposed dedicated roads.

1. Road construction shall conform to County standards for width, material, and construction
2. The developer shall notify the County Road Manager, in writing, when construction is to start.
3. The developer shall monthly contact the County Road Manager and schedule an inspection of the road during construction.
4. Upon request the developer shall provide the County Road Manager with a copy of testing lab certifications that materials (base course & paving) meet County standards.
5. The developer shall provide certification from the manufacturer that other materials meet County standards (culverts, erosion, fencing, concrete, etc.).
6. Upon request the developer shall provide the County Road Manager with all testing lab certification as to compaction of the road.
7. The developer shall provide the County Planner with a copy of all state and federal permits required for the road construction.
8. All roads required to be constructed pursuant to this Ordinance must be completed within twelve (12) months of preliminary approval of the subdivision.
9. An as-built set of plans shall be submitted to the County Planner or designee upon completion of the road and prior to the County's final inspection of the road.
10. The developer, upon completion of the project, shall schedule a final inspection with the County Authority."

#### **E.18 SIGNS**

The subdivider shall place road name signs at all intersections, "Dead End Road" signs at the entrance of Cul-de-sacs, and "End of County Maintenance" signs at the points where private roads join or intersect with public roads.

Road name signs shall be constructed of maintenance free, double-facing plates. Street names will be white reflectorized copy on a green baked enamel background. All signs shall meet standards established by the New Mexico Department of Transportation. Signs shall be securely mounted on New Mexico Department of Transportation approved poles, and shall be installed at the time of road construction.

Traffic control signs will be furnished and installed by the County.

#### **E.19 ROAD PAVING**

All roads in proposed Types I and II subdivisions containing one hundred (100) or more lots shall be paved to specifications stated in Sections E.14 and E.15. At their own discretion, subdividers may utilize hot mix bituminous asphalt surfacing (one and one-half inches minimum thickness) and/or additional asphaltic penetration or wearing courses.

The subdivider may request the County Road Department Supervisor for joint cooperative effort to achieve chip-sealing of roads in subdivisions. In those cases where the Road Supervisor finds that chip-sealing the road would reduce the maintenance burden on the county and reduce costs he may recommend to the Board of County Commissioners that the County provide the equipment and manpower to accomplish chip-sealing of the road(s) requested and the subdivider provide the materials and oil. The County Commission may in its discretion either elect to enter into the joint cooperative effort or not depending on their judgment of the relative financial condition of the County, availability of personnel and benefit to be derived by the public from such participation.

#### **E.20 VARIANCE**

The Board of County Commissioners may grant a variance from the these regulations if the Board of County Commissioners finds upon presentation of adequate information that compliance with the these regulations will result in an arbitrary and unreasonable taking of property or exact undue hardship, and that a variance from the these regulations will not result in a condition injurious to health or safety. In all cases where a variance is sought, the variance request shall be processed pursuant to the procedures set forth in the main body of the Subdivision Ordinance.

#### **E.21 ROAD ACCEPTANCE OR APPROVAL**

After receiving the Certificate of Completion from the subdivider's Professional Engineer or land surveyor stating that the roads have been built in compliance with these regulations and located in compliance with the approved Preliminary Plat and properly depicted on the Final Plat, and Upon request by subdivider, the County Road Department will inspect the roads to verify completion of the roads and determine compliance with the provisions of these regulations. If the roads are found to be completed and in compliance, the Board of County Commissioners shall approve roads to be built or accept the roads for public use on a conditional basis pending the successful completion of the Warranty Period described in Section E.23 and all other requirements being met, approve the Final Plat for recording.

#### **E.22 MAINTENANCE (PUBLIC ROADS ONLY)**

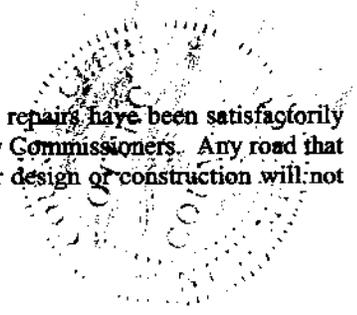
No maintenance will be performed on the roads by the Road Department until the subdivision has reached an occupancy level of twenty percent (20%). The subdivider shall notify the Road Department when the subdivision has reached an occupancy level of twenty percent. After which the Road Department will perform routine maintenance as needed, but will not be responsible for any repair due to improper design or construction of the roads, and not until any and all repairs and maintenance needed at this time are performed by the subdivider.

#### **E.23 WARRANTY PERIOD**

The subdivider shall maintain the roads until the subdivision reaches an occupancy level of twenty percent (20%), and shall be responsible for any repairs to the roads for a period of twenty-four months from the date upon which the Preliminary Approval is granted, or twelve months from the date upon which the subdivision reaches an occupancy level of twenty percent (20%), whichever occurs later. The County Road Department will notify the subdivider of any required repair work at this time, and will perform no routine maintenance on the roads until the repair work is satisfactorily completed. Failure of the subdivider to make the required repairs within sixty (60) days of notification shall automatically void the Conditional Final Plat Acceptance granted pursuant to Section E.21.

#### **E.24 ACCEPTANCE FOR MAINTENANCE (PUBLIC ROADS ONLY)**

Upon successful completion of the Warranty Period, and provided that any and all required repairs have been satisfactorily completed, the roads will be eligible for Acceptance for Maintenance by the Board of County Commissioners. Any road that is deemed to cause undue maintenance and/or repair expense to the County due to improper design or construction will not qualify for Acceptance for Maintenance.



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